

# स्रसाधारण EXTRAORDINARY

माग II--खण्ड 2

PART II-Section 2

# प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं. 36] नई दिल्ली, शुक्रवार, सितम्बर 13, 1991/भार 22, 1513 No. 36] NEW DELVII, FRIDAY, SEPTEMBER 13, 1991/BHADRA 22, 1913

इस भाग में भिन्न पट्ट संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### LOK SABHA

The following Bills were introduced in Lok Sabha on 13th September, 1991:--

#### BILL NO. 85 OF 1991

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short title.

2. After article 18 of the Constitution, the following sub-heading and article shall be inserted, namely:—

Insertion of new article 18A.

### "Right to Employment

18A. (1) Every citizen of India, within the age limit of eighteen years to sixty-five years, shall have the right to employment.

(2) Every citizen of India, within the age limit mentioned in clause (1), who is not provided with employment, shall be given an unemployment allowance at the rate of rupees two hundred per month."

Right to employment and unemployment allowance,

#### STATEMENT OF OBJECTS AND REASONS

Energy and intelligence of the youth of our country can be fully utilised by providing a suitable job to every youth. Nation can prosper more if we can utilise the manpower which we have in our country.

It is the aspiration of the country to provide a job to every youth. After 43 years of Independence no youth of our country should have been left without employment. In order to achieve the socialistic objective of our Constitution, right to employment should be made a fundamental right.

The Bill seeks to achieve this objective.

NEW DELHI;

SATYAGOPAL MISRA.

July 11. 1991.

#### FINANCIAL MEMORANDUM

The Bill provides for payment of unemployment allowance to every unemployed citizen at the rate of Rs. 200.00 per month. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on implementation of this provision in the Union territories and at the same time towards making grants-in-aid to the States to meet the entire expenditure. An annual recurring expenditure of about rupees thirty crores is estimated to be incurred from the Consolidated Fund of India on this account.

A non-recurring expenditure of about two crores is also likely to be incurred for carrying out the purposes of this Bill.

## BILL No. 83 of 1991

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short tit**le.**  1. This Act may be called the Constitution (Amendment) Act, 1991.

Substitution of new Schedule for Eighth Schedule.

2. For Eighth Schedule to the Constitution, the following Schedule shall be substituted, namely:

# "EIGHTH SCHEDULE

[Articles 344(1) and 351]

#### Languages

- 1. Assamese
- 2. Bengali.
- 3. Bhojpuri.

- 4. Dogri.
- 5. Gujarati.
- 6. Hindi.
- 7. Kannada.
- 8. Kashmiri.
- 9. Konkani.
- 10. Malayalam.
- 11. Manipuri.
- 12. Marathi.
- 13. Nepali.
- 14. Oriya.
- 15. Punjabi.
- 16. Rajasthani.
- 17, Sanskrit.
- 18. Sindhi.
- 19. Tamil.
- 20. Telugu.
- 21. Urdu."..

#### STATEMENT OF OBJECTS AND REASONS

In our country, with a population of over 800 millions, a large number of languages are spoken. But only 15 languages have been included in the Eighth Schedule to the Constitution. People of different regions have different aspirations. They are emotionally associated with their language, religion and culture. Bhojpuri, Dogri, Konkani, Nepali, Manipuri and Rajasthani languages have their own script, literature and culture. These languages are used by a large number of people. The State Givernments have also recognised these languages in their respective States.

It is, therefore, in the fitness of the things that Bhojpuri, Dogri, Konkani, Nepali, Manipuri and Rajasthani, languages should be added to the Eighth Schedule to the Constitution so as to give them recognition which would be in the interest of national integrity and unity.

Hence this Bill.

NEW DELET;

SATYAGOPAL MISRA

July 11, 1991.

#### Bull No. 84 of 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short title.

2. In article 310 of the Constitution, clause (2) shall be omitted.

Amendment of article 316.

- 3. In article 311 of the Constitution,—
  - (i) in clause (2), second proviso shall be omitted;
  - (ii) clause (3) shall be omitted.

Amendment of article 511.

#### STATEMENT OF OBJECTS AND REASONS

The provisions of the Constitution sought to be omitted affect the fundamental and democratic rights of the Central and the State Government employees and workers. Many of the employees and workers of the Central Government have been arbitrarily removed under these undemocratic and anachronistic provisions. These black provisions deprive the Government employees of protection in accordance with the principles of natural justice as their services are placed at the mercy of the President or the Governor, as the case may be. These provisions have been copied exactly from the provisions made in the Queen Victoria's Proclamation of 1858 and the Government of India Act, 1935, which were aimed to destroy the rights of the Government employees.

In view of this, it has become necessary that these provisions empowering the Government to dispense with the services of Government employees without giving them any opportunity of self-defence and without assigning any reason should be deleted from the Constitution.

The Bill seeks to achieve the objects of safeguarding the democratic rights of the Government employees in giving them the scope of natural justice and the law of the land.

Hence this Bill.

NEW DELHI;

SATYAGOPAL MISRA.

July 11, 1991.

### BILL No. 86 OF 1991

A Bill to consolidate laws relating to forests, the transit of forest-produce and to make special provisions for the regulation of felling and replanting of trees in urban and rural areas and sandalwood, and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:-

#### CHAPTER I

#### PRELIMINARY

- 1. (1) This Act may be called the Forest Act, 1991.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of

Short title, extent and commencement.

this Act shall be construed as a reference to the coming into force of that provision in relation to such State to which this Act has been brought into force.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (i) "cattle" means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares, geldings, ponies, coits, fillies; mules; asses, pigs, rams, ewes, sheep, lambs, goats, yak and fowls;
- (ii) "Divisional Forest Officer" means the Forest Officer in charge of territorial Forest Division or a Forest Officer having jurisdiction over a portion or portions of one or more such divisions when constituted into a Forest Division for any special purpose;
- (iii) "forest" includes any land containing trees and shrubs, pasture lands and any land whatsoever which the State Government may by notification declare to be forest for the purpose of this Act.
- (iv) "forest offence" means an offence punishable under this Act or under any rule made thereunder;
- (v) "Forest Officer" means any person whom the State Government or any officer empowered by the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;
  - (vi) "forest produce" includes-
  - (a) the following whether found in or brought from a forest or not, that is to sav—
    - (i) timber, charcoal, caoutchoue, catachu, wood-oil, gum, resin, natural varnish bark, lac;
    - (ii) mahua flowers mahua seeds, kuth, myrabolams, tendu leaves;
    - (iii) wild animals, skins, misks and horns and all other parts or produce of wild animals;
  - (b) The following when found in, or brought from, a forest, that is to say—
    - (i) plants not being trees (including grass, creepers, orchids and moss), and all parts or produce of such plants;
    - (ii) trees, leaves, flowers, fruits, latex and all other parts or produce of trees not bereinbefore mentioned;
      - (iii) silk cocoons, honey and wax;
    - (iv) peat, humus, surface soil, rock, and minerals (including lime-stone, sand, laterite mineral oils, and all products of mines or quarries);
      - (v) standing agricultural crops and produce thereof;
  - (c) such other produce as the State Government may, by notification in the Official Gazette, specify from time to time;

(vii) "land" includes river or any water-body;

- (viii) "owner" in relation to a forest, includes a mortgage with possession, losses or other person having right to the possession and enjoyment of the forest, and a Court of Wards in respect of property under the superintendence or charge of such Court;
- (ix) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, by the State Government;
- (x) "Revenue Officer" means any officer employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith;
- (xi) "river" includes any stream, canal, creak or other channels, natural or artificial;
  - (xii) "rural area" means any area which is not an "urban area":
- (xiii) "timber" includes trees when they have fallen or have been felled or uprooted and all wood whether cut up or fashioned or hollowed out for any purposes or not;
- (xiv) "tree" includes palms, bamboos, reeds, stumps, brushwood and canes;
- (xv) "urban area" means an area which is included within the limits of a Municipal Corporation, Municipality, Notified Area Committee, Town Area Committee, Cautonment Board or of a Development Authority.

#### CHAPTER II

#### RESERVED FORESTS

3. The State Government may constitute any land which is the property of that Government, or over which it has proprietory rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

Power to reserve forests.

4. (1) Whenever it has been decided to constitute any land a reserved forest, the State Government shall issue a notification in the Official Gazette—

Notification by State Government.

- (a) declaring that it has been decided to constitute such land a reserved forest;
- (b) specifying, as nearly as possible, the situation and limits of such land; and
- (c) appointing an officer (hereinafter called the Forest Settlement Officer) to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation—For the purpose of clause (b), it shall be sufficient to describe the limits of the land by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest office except that of Forest Settlement-Officer:

Provided that a forest officer may be appointed by the State Government to represent it in the inquiry conducted under this Chapter by the Forest Settlement Officer.

(3) Nothing in this section shall prevent the State Government from appointing any number of officers not exceeding three and not more than one of whom shall be a person holding any forest office except as aforesaid, to perform the duties of a forest Settlement Officer under this Act.

Bar on accrual of fresh rights and prohibition of certain acts.

# 5. (1) After the issue of a notification under section 4,—

- (a) no rights shall be acquired in or over the land comprised in such notification except by succession or under a grant of contract in writing made or entered into by or on behalf of the State Government or some person in whom such right was vested when the notification was issued;
- (b) no new house shall be built or plantation formed, no fresh clearing nor breaking up of land for cultivation or for any other purpose shall be made on such land nor any tree therein felled, girdled, chopped, tapped or burnt or its bark or leaves stripped off, or the same otherwise damaged, nor any forest produce removed therefrom except in accordance with such rules as may be made by the State Government in this behalf:

Provided that nothing shall prohibit the doing of any act specified in this clause with the permission in writing of the Forest Seitlement Officer; and

- (c) no person shall set fire or kindle or leave burning any fire in such manner as to endanger or damage such land or forest produce.
- (2) No patta in such land shall be granted by on behalf of the State Government.
- (3) Save as otherwise provided in this Act, no civil court shall, between the dates of publication of the notification under section 4 and under section 20, entertain any suit to establish any right in or over any land included in forest produce of any land included in the notification published under section 4.

Proclamation by Forest Settlement Officer

- 6. When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the local language in every town and village in the neighbourhood of the land comprised therein a proclamation --
  - (a) specifying, as nearly as possible the situation and limits of the proposed reserved forest;
  - (b) explaining the consequences which, as hereinafter provided will ensue on the constitution of such reserved forest; and
  - (c) fixing a period of not less than three months and not more than six months from the date or such proclamation, and requiring

every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement Officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. (1) The Forest Settlement Officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Inquiry
by Forest
Settlement
Officer

- (2) The Forest Settlement Officer shall record and consider any representation which the Forest Officer in any representing the State Government may make in respect of any such claim or objection thereto.
- 8. For the purpose of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say,—

Powers
of Forest
Settlement
Officer.

- (a) power to enter by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
  - (b) the powers of a civil court in the trial of suits.
- 9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

Extinction of rights.

- 10. (1) The claims relating to the practice of shifting cultivation shall not ordinarily be entertained except as hereinafter provided.
- (2) In the case of a claim relating to the practice of shifting cultivation, which if entertained, the Forest Settlement Officer shall record a statement setting forth the particulars of the claim and of any local rules or order under which the practice is allowed or regulated and submit the statement to the State Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

Treatment of claims relating to the Practice of shifting cultivation.

- (3) On receipt of the statement and opinion, the State Government may make an order permitting or prohibiting the practice wholly or in part.
- (4) If such practice is permitted wholly or in part, the Forest Settlement Officer may make the following arrangements for compliance:—
  - (a) By altering the limits of the land under settlement so as to exclude land of sufficient extent of a suitable kind, and in a locality reasonably convenient for the purpose of the claimants or
  - (b) by causing certain portions of the land under settlement to be separately demarcated and giving permission to the claumants

to practice shifting cultivation therein under such conditions as he may prescribe.

- (5) All arrangements made under sub-section (4) shall be subject to the previous sanction of the State Government.
- (6) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the State Government.

Power to acquire land over which right is claimed.

- 11. (1) In the case of a claim to a right in or over any land, other than a right of way or right of pasture, or a right to forest produce or a watercourse, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.
- (2) If such claim is admitted in whole or in part, the Forest Settlement Officer shall either—
  - (i) exclude such land from the limits of the proposed reserved forest; or
  - (ii) come to an agreement with the owner thereof for the surrender of his rights; or
  - (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.
  - (3) For the purpose of so acquiring such land-
  - (a) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894;

1 of 1894.

- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (c) the provisions of that Act shall be deemed to have been complied with; and
- (d) the Collector, with the consent of the claimant, or the Court, or with the consent of both parties, may award compensation in land or partly in land and partly in money.

Orders
on claim
to rights
of pasture or
to forestproduce
or a right
of way
or water
course.

12. In the case of a claim to rights of pasture or to forest-produce or a right of way or water course the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Record to be made by Forest Settlement Officer

- 13. The Forest Settlement Officer, while passing any order under section 12 shall record, so far as may be practicable.
  - (a) the name, father's name, caste, residence and occupation of the person claiming the right; and
  - (b) the designation, position and area of all fields or groups of tield (if any) and the designation and position of all buildings (if any) in respect of which such right is claimed.

14. If the Forest Settlement Officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to gaze in the forest, the season during which such pasture is permitted the quantity of timber and other forest produce which he is from time to time authorised to take or receive and such other particulars as the case may require.

Record where Forest Settlement Officer admits claim.

15. (1) After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as shall ensure the continued exercise of the rights so admitted

Exercise of rights admitted.

- (2) For this purpose the Forest Settlement Officer may-
- (a) set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude forest land of sufficient extent and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, in such seasons, within such portions of the proposed reserved forest, and under such rules, as may be made in this behalf by the State Government.
- (3) In the case of right of way or water course, the Forest Settlement officer shall record, by whom and for what purpose, it may be utilised and the conditions attached to its use.
- 16. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted he shall, subject to such rules as the State Government may make in this behalf, commute such rights by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Commutation of rights.

17. A copy of every order passed under section 11, section 12, section 15 and section 16 shall be furnished to the claimant by the Forest Settlement Officer and also to the Forest Officer who represented the State Government at the inquiry, or where no such officer was appointed, to the Divisional Forest Officer concerned free of cost within thirty days of passing of such order.

Supply of copy of order passed under section 11, section 12, section 15 or section 16 to certain persons.

Appeal from order passed under section 11, section 12, section 15 or section 16.

18. Any person who has made a claim under this Act or any Forest Officer or a person generally or specially empowered by the State Government in this behalf, may, within three months from the date of the order passed on such claims by the Forest Settlement Officer under section 11, section 12, section 15 or section 16, present an appeal from such order to the District Judge:

Provided that the State Government may establish a court (hereinafter called the Forest Court) consisting of three persons to be appointed by the State Government and when the Forest Court has been so established, all such appeals shall be presented to it.

Appeal under section 18.

- 19. (1) Every appeal under section 18 shall be made by a petition in writing, within fifteen days of the date of receipt of the order of the Forest Settlement Officer, to the authority competent to hear the same.
- (2) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.
- (3) The District Judge, or the Forest Court, as the case may be, may, after giving to the party an opportunity of being heard, confirm, set aside or modify, the orders under appeal or remand the case to the Forest Settlement Officer with such directions as he thinks fit.
- (4) During the pendency of the appeal the District Judge or the Forest Court, as the case may be, may, for sufficient cause, stay on such terms, if any, as he thinks fit, the operation of the order appealed from and pass any incidental or consequential order.
- (5) If the order is reversed or modified in appeal, the Forest Settlement-officer shall proceed to deal with it in like manner as it had been in the first instance made by himself.
- (6) The order passed on the appeal by the District Judge or the Forest Court, or by the majority of the members of such Court, as the case may be shall subject only to provision of section 24, be final.

Pleaders.

20. The State Government, or any person who has made a claim under this Act may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer or the appellate authority in the course of any inquiry or appeal under this Act.

Notification declaring forest as reserved

- 21. (1) When the following events have occurred, namely:—
- (a) The period fixed under section 6 for preferring claims has elapsed and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-Officer;
- (b) If any such claims have been made, the period limited by section 18 for appealing from the orders passed on such claim has elapsed and all appeals (if any) presented within such period have been disposed of by the appellate authority; and
- (c) all lands (if any) to be included in the proposed reserved forest, which the Forest Settlement-Officer has under section 11,

elected to acquire under the Land Acquisition Act, 1984, have become vested in the Government under section 16 of that Act,

the State Government shall publish a notification in the official Gazette, specifying definitely, according to boundary marks erected or otherwise the limits of the land which is to be reserved, and declaring the same to be reserved from a date by the notification.

- (2) From the date so fixed such land shall be deemed to be a reserved forest.
- 22. Notwithstanding anything contained in this Act or any other law for the time being in force, any normal find or waste land in the territories comprised within State, immediately before the date of its merger if any of the integrating States now forming part of any State or Union Territories in the Indian Union (hereinafter in this section referred to as the merged territories),...
  - to deemed to be reserved forest.

Forest

land or

waste

land

when

- (a) which was deemed to be a reserved forest under any enactment in force in that State, or
- (b) which had been recognised or declared by the Ruler of such State as a reserved forest under any law (including any enactment, rule, regulation, order, notification, custom or usage having the force; or
- (c) which was dealt with as a reserved forest in any adminisuation report or in accordance with any working plan or register maintained and acted upon under the authority of the Ruler,

snall be deemed to be and since the said date to have continued to be a reserved forest for the purpose of this Act subject to the same rights and concessions, if any, in favour of any person as were in force immediately before the said date.

23. The Forest-officer shall, before the date fixed by such notification under section 21, cause a translation thereof into the local language to be published in every town and village in the neighbourhood of reserved forest.

Publication of translation of such notification in neighbourhood of forest.

24. The State Government may, within five years from the publication of any notification under section 21, revise any arrangement made under section 15 or order made on an appeal under section 19, and may for this purpose rescind or modify any order made under section 15 or on appeal under section 10, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

Power to revise arrangement under section 15 or section 19. Power to commute rights. 25. The State Government may at any time from the publication of the notification under section 21, commute rights admitted under section 12 or section 15 or under appeal under section 19 to such extent as it may deem necessary.

Power of the Government to redefine the limits of reserved forests in certain cases

- 26. (1) Where the description of the limits of any reserved forest notified under section 21 is defective or is not clear in reference to existing facts, the State Government may by notification in the Official Gazette, declare their intention to redefine the limits of such reserved forest so as to remove the defect or to make the description clear in reference to existing facts and such notification shall specify as nearly as possible the correction which it is proposed to effect to the limits of the reserved forest.
- (2) On the issue of a notification under sub-section (1), the Divisional Forest Officer shall publish in the Official Gazette and in such other manner as may be prescribed by rules made in that behalf, a notice—
  - (a) specifying the corrections proposed by the notification under sub-section (1); and
  - (b) stating that any objections which may be made in writing to the Divisional Forest Officer within a period of thirty days from the date of publication of the notice, will be considered by him.
- (3) After the expiry of the period referred to in clause (b) of subsection (2) and after considering the objections, if any, the Divisional Forest Officer, after giving an opportunity to the aggreed party to be heard in person, shall submit to the Government the record of the proceedings held by him together with a report thereon.
- (4) The Government may, after considering the report of the Divisional Forest Officer, by notification in the official Gazette re-define the limits of the reserved forest, as proposed by the notification under subsection (1), with such modifications as they think fit or without any modifications.
- (5) Save as provided in this section it shall not be necessary to follow the procedure laid down in section 4 to section 19 before issuing a notification under sub-section (4).

No right acquired over reserved forests, except as here provided.

27. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right as vested when the notification under section 21 was issued.

Rights not to be alieneated without manction. 28. (1) Notwithstanding anything contained in section 27, no right continued under clause (c) of sub-section (2) of section 15 shall be alieneated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the State Government:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alieneated with such land of house.

- (2) No timber of other forest produce obtained in exercise of any such right shall be sold or bartered.
- 29. The Forest-Officer may stop any public or private way or water-course in a reserved forest:

Provided that if a substitute for the way or water-course so stopped, already exists, or has been provided or constructed by the Forest-Officer in lieu thereof.

Power to stop ways and water courses in reserved forests.

# 30. (1) Any person who-

Acts prehibited in such forests.

- (a) contravenes the provisions of clause (b) or clause (c) of sub-section (1) of section 5; or
- (b) sets fire to a reserved forest, or in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire hurning in such manner as to endanger such a forest;

or who, in a reserved forest-

- (c) kindles, keeps or carries any fire except at such seasons as the Forest-Officer may notify in this behalf;
  - (d) trespasses or permits cattle to trespass and pastures cattle;
- (e) causes any damage by negligence in felling any tree or cutting or dragging or removing any timber;
- (f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from or otherwise damages the same;
- (g) quarries stone, burns lime or charcoal, or collects, damages subjects to any manufacturing process, or removes, any forest produce;
- (h) clears or breaks up any land for cultivation or any other purpose, or cultivates or attempts to cultivate any land in any other manner;
- (i) in contravention of any rules made in this behalf by the State Government hume, shoots or attempts to shoots fishes, poisons water kills or catch elephants or sets traps or snares in any area where the Wild Life (Protection) Act, 1972 is not in force;
- (j) damages, alters or removes any wall, ditch embankment, fence, nedge or rallings;
- (k) sells or barters any timber or other forest-product obtained in exercise of any rights or concessions;

shall in addition to such compensation for damages caused to the forest as the court may direct to be paid, be punishable.—

(i) with imprisonment for a term which shall not be less than three months but may extend to three years and also with fine which shall not be less than rupees five hundred and may extend to five

thousand tupees or with both in case of offences relating to sandal-wood, rosewood, red sanders wood and such other forest-produce as the State Government may by notification in the official Gazette specify; and

- (ii) with imprisonment which may extend to one year or with fine which may extend to one thousand supers or with both in the case of all other offences mentioned in this sub-section.
- (2) Nothing in this section shall be d∈emed to prohibit-
- (a) any act done by permission in writing of the forest officer, or under any rule made by the State Government; or
- (b) the exercise of any right continued under clause (c) of subsection (2) of section 15,

or created by grant or contract in writing made by or on behalf of the Government under Section 27.

- (3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, or theft of forest-produce occurs on such a scale as to be likely to imperil the future yield of such forest, the State Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest produce shall be suspended for such period as at thinks fit.
- (4) Where a person contravenes the provision of clause (d) or (h) of Sub-section (1)—
  - (i) a Forest-officer or
  - (ii) a Police-officer not below the rank of a Sub-inspector, or
  - (iii) a Revenue-officer not below the rank of a Deputy Tehsildar or as may be notified by the State Government,

may direct the person from the forest or the land, pertaining to which the contravention has taken place and demolish any building or other construction and remove anything grown or deposited on it;

(5) Where any agricultural or other crop as grown on the land in contravention of clause (h) of sub-section (1) or any building or other construction is put up on such land, any such crop, building or other construction shall be hable to confiscation by an order of the Divisional Forest-Officer.

Power to declare forests no longes reserved

31. (1) The State Government may, by notification in the official Gazette, direct that, from a date fixed by such notification, any land or any portion thereof reserved under this Act shall cease to be a reserved torest.

Provided that no such notification shall be issued unless a resolution to that effect has been passed by the State legislature or by both Houses of the State legislature where there exist two Houses of legislature.

(2) From the date so fixed, such land or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

#### CHAPTER III

#### PROTECTED FORESTS

32. (1) The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter applicable to any land which is not included in a reserved forest, but which is the property of Government, or over which the Government has propriety rights or to the whole or any part of the forest-produce of which the Government is entitled.

Protected

- (2) The lands comprised in any such notification shall be called a "protected forest".
- (3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient:

Provided that, if in the case of any land, the State Government thinks that such inquiry and record are necessary, but that they shall occupy such length of time as in the mean-time to endanger the rights of Government, the State Government may pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or effect any existing rights of individuals or communities.

- (4) Every such record sha'l be presumed to be correct until the con-'rary is proved.
- 33. Forests recognised in the merged territories as village forests or protected forests other than reserved forests, by whatever name designated or locally known, shall be deemed to be protected forests within the meaning of this Act and provisions of section 22 shall mutatis mutandis apply.

Forest land or wasteland when deemed to be protected forests.

- 34. The State Government may, by notification in the Official Gazette,--
- (a) declare any trees or class of trees or other forest-produce in a protected forest to be reserved from a date fixed by the notification;
- (b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonable convenient, for the due exercise of the rights suspended in the portion so closed; or

Power to issue notification reserving trees, etc. (c) prohibit, from a date fixed as aforesaid the quarrying of stone or the burning of lime or charcoal, any or the collection or subjection to any manufacturing process, or removal of any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

Publication of translation of such notification in neighbourhood.

35. The Divisional Forest Officer shall cause a translation into the local language of every notification issued under section 34 to be affixed in a conspicuous place in every town and village in the neighbourhood of forest comprised in the notification.

Power to make rules for protected forests.

- **36.** The State Government may, by notification in the official Gazette, make rules to regulate all or any of the following matters, namely:—
  - (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;
  - (b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;
  - (c) the granting of licences to persons falling or removing trees or timber or other forest produce from such forests for the purposes of trade, and the production and return of such licences by such persons;
  - (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut trees or to collect and remove such timber or other forest-produce;
  - (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
    - (f) the examination of forest-produce passing out of such forests;
  - (g) the protection from fire of timber lying in such forests and of trees or other forest-produce reserved under section 34;
    - (h) the cutting of grass and pasturing of cattle in such forests;
  - (i) hunting, shooting, fishing poisoning water, killing and catching of elephants and setting traps or snares in such forests, in areas where the Wild Life (Protection) Act, 1972, is not in force.
  - (j) the protection and management of any portion of a forest closed under section 34:
    - (k) the exercise of rights referred to in section 32.

- 37. (1) Any person who commits any of the following offences, namely:—
  - (a) fells, girdles, lops taps, burns any tree or strips off the bark or leaves from, or otherwise damages or removes any such tree or other forest-produce reserved under section 34;
  - (b) contrary to any prohibition under section 34, quarries any stone or burns any lime or charcoal or collects, subjects to any manufacturing process, or removes any forest-produce;
  - (c) contrary to any prohibition under section 34, breaks up or clears for cultivation or any other purpose or cultivates or attempts to cultivate any land in any other manner in a protected forest;
    - (d) sets fire to such forest or kindles a fire;
  - (e) leaves burning any fire kindled by him in the vicinity of such forests;
  - (f) fells any tree or removes any timber or other forest-produce so as to damage any tree or other forest produce notified under section 34:
    - (g) permits cattle to damage any forest-produce;
- (h) infringes any rules made under section 36, shall, in addition to such compensation for damages caused to the forest as the court may direct to be paid, be punishable—
  - (i) with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both in the case of offences relating to sandalwood, red sanders wood and such other forest produce as the State Government may by notification in the Official Gazette, specify;
  - (ii) with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees or with both in the case of all other offences mentioned in this subsection.
- (2) Whenever fire is caused wilfully or by gross negligence in a protected forest or theft of forest-produce occurs on such a large scale as to likely to imperil the future yield of such forest, the State Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.
- (3) Where a person contravenes the provision under clause (c) of sub-section (1),—
  - (a) a Forest-officer, or
  - (b) a Police-officer not below the rank of sub-inspector, or
  - (c) a Revenue Officer not below the rank of Deputy Tehsildar-may evict him from the land in respect of which he has committed the offence.

Penalties for acts in contravention of notification under section 54 or of rules under section 36. Nothing in this Chapter to prohibit acts done in certain cases.

38. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Porest-officer, or in accordance with rules made under section 36, or as regards any rights—the exercise of which has been suspended under section 37, in the exercise of any right recorded under section 32.

Power to declare forest no longer protected.

39. (1) The State Government may, by notification in the Official Gazette, direct that, from a date fixed by such notification, any land or any portion thereof protected under this Act, shall cease to be a protected forest:

Provided that no such notification shall be issued unless a resolution  $t_0$  that effect has been passed by the State Legislature, if the area so involved is more than 20 ha.

(2) From the date so fixed, such lar for portion thereof shall cease to be protected but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

#### CHAPTER IV

#### VILLAGE FORESTS

Formation of village forests.

- 40. (1) The State Government may, by notification in the Official Gazette, constitute any land at the disposal of Government or village community, other than the reserved forests, as village forest for the benefit of any village community or group of village communities and may in like manner vary or cancel such notification.
- (2) Every such notification shall specify the limits and extent of such village forest.
- (3) No such notification shall be made unless the nature and extent of the rights of Government or of private persons on or over the forest land or wasteland comprised therein have been inquired into and recorded at a survey and settlement or in such other manner as the State Government thinks it sufficient:

Provided that, if, in the case of forest land or waste land the State Government thinks that such enquiry and record are necessary, but they shall occupy such length of time as in the mean-time to endanger the rights of Government, the State Government may, pending such enquiry and record, declare such land to be a village forest but so as not to abridge or affect any existing rights of any individual or community.

- (4) Every such record shall be presumed to be correct until the contrary is proved.
- Rules for regulating the management
- 41. (1) The State Government may, by notification in the Official Gazette, make rules for regulating the management of village forests, prescribing the conditions under which the communities and the group of communities for the benefit of which any such village forest is constituted may be provided with forest-produce or with pasture and their duties in respect of protection and improvement of such forests.

(2) The State Government may, by such rules, declare that all or any of the provisions of Chapter II or Chapter III of this Act be applicable to such village forests.

#### CHAPTER V

### CONTROL OVER FOREST AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT

42. (1) The State Government may, by notification in the Official Gazette regulate or prohibit in any forest or waste land not being the property of the Government,—

Protection of forests for special purposes.

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle;
- (c) the firing or clearing of the vegetation;
- (d) the girdling, tapping or burning of any tree or the stripping off bark or leaves from any tree;
  - (e) the lopping or pollarding of trees;
- (f) the cutting, sawing, conversion or removal of trees and timber;
- (g) the quarrying of stones, or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;
- (h) the exercise of customary and prescriptive rights or the regeneration of forests and the protection from fire in such land;

when such regulation or prohibition appears necessary for any of the following purpose:—

- (i) for protection against storms, winds, rolling stones, floods, drought and avalanches;
- (ii) for the preservation and improvement of the soil or the reclamation of saline or waterlogged land, the prevention of landslip or of the formation of ravines and torrents; or the protection of land against erosion, or the deposit thereon of sand, stones, or gravel;
- (iii) for the maintenance of water-supply in springs, rivers. tanks, irrigation works and reservoirs;
- (iv) for the protection of roads, bridges, railways and other lines of communication;
- (v) for the preservation of the environment and public health;
- (vi) for the improvement of grazing, maintenance, increase and distribution of the supply of fodder leaf manures, timber or fuel and to check pilferage of forest produce:

- (vii) for the raising or conservation of trees and forests for public good.
- (2) The State Government may, for any such purpose, construct at its own expense in or upon any land, such work as it thinks fit.
- (3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2) until after the issue of a notice to the owner of such land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and any evidence he may produce in support of the same, have been heard by the divisional forest officer.
- (4) The show cause notice may require that for any period not exceeding one year or till the date of the making of a notification, whichever is earlier, the owner of such forest and all persons who are entitled or permitted to do therein any or all of the things specified in clauses (a) to (h) of sub-section (1) whether by reason of right, title or interest or under any licence or contract or otherwise, shall not, after the date of the notice and for the period or until the date aforesaid as the case may be, do any or all the things specified in clauses (a) to (h) of sub-section (1) to the extent specified in the notice.
- (5) The notice referred to in sub-section (3) of this section, or sub-section (1) of section 44 and the order, if any, made placing the forest under the control of a Forest-officer, shall be served on the owner of such forest in the manner provided in the Code of Civil Procedure, 1908, for the service of summons and shall also be published in the manner prescribed by rules.

5 of 1908

- (6) When a notice has been served or published as aforesaid any person acquiring thereafter the right of ownership of the forest shall be bound by the notice as it had been served on him as an owner and shall accordingly comply with the notice requisition and notification.
- (7) Any person contravening any of the provisions of a notification issued under sub-section (1) or any requisition made under sub-section (4) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to six months or with fine which may extend to five hundred rupees or with both.

Bar of suits.

43. No order of the State Government or by any officer empowered by the State Government in this behalf under this Chapter and notification issued by the State Government under section 42 shall be liable to be questioned in any court of law

Power to assume manage ment of forests.

44. (1) In case of neglect of or wilful disobedience to any regulation or prohibition under section 42 or if the outposes of any work to be constructed under that section so require, the State Government may, after notice in writing to the owner of such land and after considering his objections, if any, place the same under the control of a forest-officer and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such land.

- (2) The net profits, if any, arising from the management of such a land shall be paid to the said owner
- (3) The notification assuming management of a land under sub-section (1) shall be conclusive and no suit shall lie against it
- 45. The period of control of management of any forests under section 44 shall be for a period of ten years from the date of the order aforesaid but such period may thereafter be extended for successive period of not more than ten years each provided that the period of such control shall not in the aggregate exceed thirty years from the date of the order.

Period of control.

46. If the State Government decides to terminate—

Termination of control.

- (i) any period of control of any forest, it shall, by order, published in the Official Gazette and in such other manner as may be prescribed by rules, declare and thereupon possession of the forest shall be given to the owner or if the owner be dead, to any person entitled to such possession, together with any sum of money which may be standing to the credit of such owner;
- (ii) all acts done or purported to be done by the Forest Officer in respect of any forest placed under his control, during the period of such control or of the extension thereof, shall be binding on the owner of such forest or any person to whom possession of the forest has been delivered under this section.
- 47. (1) In any case under this Chapter in which the State Government considers that in lieu of placing the forest or land under the control of a Forest-officer, the same shall be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act. 1894.

Expropriation of forests in certain cases.

1 of 1894.

- (2) The owner of any land comprised in any notification under section 42, may, at any time not less than three or more than twelve years from the date thereof, require that such land shall be acquired for public purposes, and the State Government shall acquire such land accordingly.
- 48. (1) The owner of any land or, if there be more than one owner thereof, the owners of majority of shares therein may, with a view to the formation or conservation of forests thereon represent in writing to the Forest-Officer their desire—

Protection of forests at request of owners.

- (a) that such land be managed on their behalf by the Forest-Officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or
- (b) that all or any of the provisions of this Act be applied to such land.
- (2) In either case, the State Government may, by notification in the Official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants

# CHAPTER VI

REGULATION OF FELLING AND REPLANTING OF TREES IN URBAN AREAS

Prohibiting felling cutting damaging, destroying a tree in any Urban area,

49. The State Government may, by notification in the Official Gazette, prohibit from the date specified in such notification cutting, damaging, destroying, felling or removing any tree in any urban area whether included in a private holding or not except under the provisions made in this Chapter or any rules made thereunder.

Establishment of Tree Authority.

- 50. (1) The State Government, shall by notification in the Official Gazette, constitute a Tree Authority for each Urban Area notified.
  - (2) Such authority shall consist of seven members as follows:—
  - (i) the Mayor or the President of the Municipal Corporation or the Municipal Councillor or Notified Area Committee;
  - (ii) the Deputy Commissioner or the District Collector or his representative;
    - (iii) a representative of the State Forest Department;
    - (iv) a representative of the State Agriculture Department;
    - (v) a representative of the District Horticulture Officer;
  - (vi) the Municipal Commissioner or the Chief Executive Officer, as the case may be; and
  - (vii) a member of the Municipal Corporation or the Municipal Council or the Notified Area Committee as may be nominated by the Mayor or the President, as the case may be;

Provided that where the Corporation or the Municipal or the Notified Area Committee is superseded such persons as the State Government may nominate shall be members.

- (n) The Tree Authority may co-opt in such manner and for such a period as it may determine not more than three respresentatives of non-official organisations having special knowledge and practical experience in the field of planting and preservation of trees.
- (4) The State Government shall appoint one of the members specified in sub-section (2) to be the Chairman:

Provided that where the Corporation or the Municipal Council or the Notified Area Committee is superseded such member as the State Government may appoint shall be the Chairman and the State Government shall appoint another member to be the Secretary who shall generally be the representative of the State Forest Department.

Mecting of Tree Au-

- 51. (1) The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide.
- (2) The quorum of the meeting of the Tree Authority shall be a minimum of three members.

**52.** Notwithstanding anything in the relevant Act or any other law for the time being in force the Tree Authority shall subject to any general or special order of the State Government be responsible for—

Duties of Tree Authority.

- (a) the preservation of all trees within its jurisdiction;
- (b) obtaining declarations from all owners or occupants about the number of trees in their lands;
- (c) specifying the standards regarding the number and kind of trees which each locality, type of land and premises shall have;
- (d) assisting private and public institutions connected with planting and preservation of trees; and
- (e) undertaking such schemes or measures as may be directed from time to time for achieving the objectives of these provisions.
- 53. (1) As soon as may be after these provisions are brought into force in any urban area the State Government shall appoint one or more Forest Officers not below the rank of a Forest Range Officer as Tree Officer for the said urban area.

Appointment of Tree Officer.

- (2) Every Tree-officer shall exercise jurisdiction over the whole or such part of the urban area as the State Government may from time to time determine.
- 54. (1) On and after the date on which these provisions are brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force no person shall fell any tree or cause any tree to be felled in any land whether in his ownership or occupancy or otherwise situated within that urban area except with the previous permission of the Tree Officer.

Restrictions on felling of trees.

(2) On receipt of an application from any person to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree, the Tree Officer shall, after making such inquiry as he may think fit, either grant permission in whole or in part or refuse the permission applied for:

Provided that no such permission shall be refused if the tree-

- (i) is dead, diseased or wind-fallen, or
- (ii) has silviculturally matured, or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightening, rain or other natural causes.
- (3) The Tree-Officer shall decide the issue and communicate his orders granting or rejecting the permission applied or in whole or in part within forty-five days of the receipt of the application failing which the permission shall be deemed to have been granted.
- (4) Where permission to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree/trees is granted, the applicant shall plant or raise by coppice another tree or trees of the same or other

suitable species in the manner or within such time as may be specified by the Tree-Officer.

Planting of adequate number of trees in urban area.

55. If, in the opinion of the Tree-officer, the number of trees in any land is not adequate according to the standards prescribed under clause (c) of section 52, the Tree officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant trees to the requisite extent and at such places and within such time as may be specified.

Planting in place of fallen or destroyed trees.

56. When any tree is fallen or destroyed by wind, fire, lightning rain or such other natural causes the Tree-Officer may, on information given to him, after holding such inquiry as he deems fit, by order, require such owner or occupant, plant a tree or trees in the place of the trees fallen or destroyed within such time and in such manner as may be specified in the order.

Responsibilities for preservation of trees.

- 57. (1) When an order is made by the Tree Officer under section 54, section 55 or section 56 subject to the provisions of section 58, it shall be the duty of the owner or occupier of the land who is directed to plant a tree so that the tree grows properly and is well preserved.
- (2) It shall also be the duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of the provisions of this Chapter.

The recovery of expenditure on failure to comply with orders for planting of trees. 58. Where the owner or the occupier of the land fails to comply with any order made by the Tree-Officer under section 55 or section 56 or section 57, the Tree-Officer may after giving a reasonable opportunity to such owner or occupier of being heard and without prejudice to any other action which may be taken against the defaulter under these provisions, take the necessary action himself and recover the expenditure incurred therefor from the owner or the occupier as the case may be.

Appeal to the Tree Au-

- 59. (1) When any decision is given or order is made under section 55, section 56 or section 57 by the Tree-Officer, an appeal shall lie to the Tree Authority.
- (2) The appeal shall be made within thirty days from the date the decision is communicated to or the order is received by the owner or occupier of the land.
- (3) The Tree Authority shall, as far as possible, decide the appeal within sixty days from the date of its receipt after giving a reasonable opportunity to the appellant of being heard.
- (4) The decision of the Tree Authority shall be final and shall not be questioned in any court of law.

Seizure by Tree Officer. 60. When the Tree Officer has reason to believe that an offence under the provisions of this Chapter has been committed in respect of any tree he may seize the tools; ropes chains, boats, vehicles or cattle used for the commission of the said offence alongwith tree or part thereof which has been served from the ground and proceed against the accused under section 96 to section 106

61. Whoever fells any tree or causes any tree to be felled in contravention of the provisions of this Chapter or any rules made thereunder without any reasonable excuse, or not comply with any order issued or conditions imposed by the Tree Officer or any other officer subordinate to him in the discharge of their functions under the provisions of this Chapter, shall on conviction be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for felling trees in urban areas.

#### CHAPTER VII

REGULATION OF FELLING AND REPLANTING OF TREES IN RURAL AREAS

62. The State Government may, by notification in the Official Gazette, prohibit, from such date or dates specified in such notifications, cutting, damaging, destroying, felling or removing any class or kind of trees in any specified rural area whether included in a private holding or not except under the provisions of this Chapter.

Prohibiting, cutting, damaging, destroying and felling of trees in any specified rural areas.

63. The State Government may, by notification in the Official Gazette, appoint Forest Officer not below the rank of a Francist Ranger, hereinafter called an Authorised officer, for the purpose of the provisions of this Chapter and may assign to him such local limits in the specified area mentioned in section 62 as the State Government may from time to time determine.

Appointment of Authorised Officer.

64. The Authorised Officer may, on receipt of an application from any person to fell any standing tree or trees or to cut, remove or otherwise dispose of the fallen tree or trees, after making such inquiry as he thinks fit, either grant or refuse such permission to him to do so:

Restrictions on felling of trees.

Provided that such permission shall not be refused if the tree constitutes danger to person or property or has silviculturally matured or is dead or is substantially damaged by fire lightning, rain or other natural causes:

Provided further that such permission shall not be required for felling of any tree with a view to appropriate the wood or leaves thereof for bonafide use for purpose of fuel agricultural implements or other domestic use:

Provided also that such immediate steps as are necessary to remove any obstruction or nuisance or to prevent any danger may be taken without the permission of the Authorised Officer.

65. (1) The Authorised Officer shall give decision in case of an application under section 64 in respect of standing tree within sixty days from the date of receipt of such application, and in the case of an application in case of a fallen tree within fifteen days of receipt of such application.

Authorised
Officer to give decision within a fixed time.

- (2) If the Authorised Officer fails to give his decision within the time limit specified in sub-section (1), the permission referred to shall be deemed to have been granted.
- (3) Every permission granted under these provisions shall be in such form and subject to such condition, for ensuring regeneration of area and replanting of trees or otherwise as may be prescribed by the State Government.

Planting adequate number of trees in rural areas.

- 66. (1) When the Authorised Officer is of the opinion that trees should be planted in any blank area situated in the specified rural areas mentioned in rection 62, he may issue a notice to the owner, occupier or tenure holder of such blank area to show cause why trees should not be planted in such areas as may be specified in such notice.
- (2) The notice referred to in sub-section (1), shall be given in such form and shall contain such particulars and shall be served in such manner as may be prescribed by the State Government.
- (3) The Authorised Officer may after considering the replies if any, given by the claimant, direct him to plant such manner and class of trees as may be specified in these directions.

Appears to Authorised Officer,

- 67. (1) Any person aggrieved from any directions given under subsection (3) of section 65 and sub-section (3) of section 66 may, within thirty days from the date of receipt of such direction, prefer an appeal to the officer so authorised by the Government in this regard.
- (2) The officer so authorised shall not be of the rank below that of Conservator of Forests and his decision shall be final.

Obligation to plant trees.

- 68. (1) Every person who is under an obligation to plant trees under section 65 or to whom any direction has been given under section 66, shall plant the trees in accordance with such direction in the following rainy season or with such extended time as the Authorised Officer may allow.
- (2) In case of default by such persons, the Authorised Officer may cause trees to be planted and may recover the cost of plantation from such persons.

Seizure by Forest Officer. 69. When there is reason to believe that any tree has been felled or cut or removed in contravention of the provisions of this Act, the wood of such tree together with vehicles, ropes, tools, chains, cattle, if any used in such contravention may be seized by any Forest Officer and the accused shall be proceeded against as provided under section 91 of section 106.

Penalties for felling trees in rural areas. 70. Whoever fells or causes to be felled any standing tree or cuts, remove or otherwise disposes of any fallen tree in contravention of the provisions of this Chapter or any rules made thereunder or contravense any condition of any permission granted under the provisions of this Chapter, shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

#### CHAPTER VIII

#### SPECIAL PROVISIONS RELATING TO SANDALWOOD

- 71. Notwithstanding anything contained in any law, contract, grant or other instruments or judicial decision—
  - (i) All sandal trees, which may grow in any land after the date of the commencement of this Act; and
  - (ii) All sandal trees existing in any land prior to the commencement of this Act and the ownership of which is vested in the State Government, shall be the exclusive property of the State Government.
- 72. (1) Any person who by the terms of his sanad, grants, or any judicial decision or otherwise is, prior to the commencement of this Act, legally entitled to the sandal trees in his lands shall not fell or sell any such sandal trees.
- (2) The Chief Conservator of Forests of the State may cause any such sandal trees or trees growing in such lands to be cut or uprooted and sold at the request and on behalf of such person entitled to the same as aforesaid in accordance with the rules as may be prescribed.
- 73. No person shall possess, store or sell or attempt to store or sell sandalwood or disintegrate or attempt to dis-integrate sandalwood in mills or by other contrivance manufacture or distil oil from sandalwood or re-distil, refine or sell oil extracted from sandalwood except under a licence obtained from a Forest Officer empowered in this behalf on payment of such fees and conditions as may be prescribed:

Provided that no such beence shall be necessary for possession of sandalwood up to five kilograms for a bonafide domestic use.

74. Every occupant or tena i or holder of land shall be responsible for the due preservation of all sandal trees growing thereon, which are the exclusive property of the State Government and shall, in the event of any damage to any such tree from whatever cause or its thefts, at once report such fact to the nearest Forest Officer or Police Officer.

75. Whoever fells or causes to be felled any standing sandalwood tree or cut, remove or otherwise disposes of any fallen sandalwood tree in contravention of provisions of this Chapter or any regulations made thereunder shall punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Sandal tree shall be exclusive property of State Government,

Disposal of sandalwood belonging to private persons.

Regulation of sale and manufacture of sandalwood and sandalwood oil,

Responsibility of occupants and holders of land for the preservation of sandal trees.

Penalty for offences relating to sandalwood.

#### CHAPTER IX

POWER TO MAKE LAW FOR DUTY ON TIMBER AND OTHER FOREST-PRODUCE

Power to make law for imposition of duty on timber and other forest produce.

- 76. The Central Government may by law made by Parliament in this behalf, levy a duty on all timber or other forest-produce—
  - (a) which is produced in the territories to which this Act extends and in respect of which the Government has any right;
  - (b) which is brought from any place outside the territories to which this Act extends;
  - (c) which is taken out to any place outside the territories to which this Act extends.

#### CHAPTER X

# CONTROL OF TRADE POSSESSION AND TRANSIT OF TIMBER AND OTHER FOREST-PRODUCE

Regulation of trade in forestproduce.

- 77. (1) The State Government may, by notification issued in the Official Gazette, prescribe that in the specified area from such date or dates as may be specified in the said notification, no person other than—
  - (a) the State Government; or
  - (b) an officer of the State Government authorised in writing in this behalf; or
  - (c) any other person, company, corporation, cooperative society or any other corporate body who may be required to undertake an operation in the area under any contract or agreement with the State Government or an officer authorised by them;

shall purchase, transport or sell any forest produce or any class of forest produce specified in the notification,

Explanation I.—Purchase of the aforesaid forest-produce from the State Government or the aforesaid officer of the State Government shall not be deemed to be a purchase in contravention of the provisions of this Act.

Explanation II.—Transport of the aforesaid forest-produce by any person having purchased them from the State Government or the aforesaid officer of the State Government to any place outside the area for manufacture or further disposal shall not be deemed to be a transport or sale in contravention of the provisions of this Act.

- (2) The State Government may make rules to carry out all or any of the provisions of sub-section (1) and in particular, may provide for—
  - (a) procedure to be followed for felling, extraction, possession, processing, transport and sale of such forest-produce as well as its purchase from private growers;

- (b) opening of the depots and fixing of sale price;
- (c) any other matter which is either expressly or impliedly required to be prescribed for carrying out the provision of subsection (1).
- 78. (1) The control of all rivers and their banks as regards the float. Power to ing of timber, as well as the control of all timber and other forestproduce in possession or transit by land or water, is vested in the State regulate Government, and it may make rules to regulate the possession or transit possesof all timber and other forest-produce.

transit of forestproduce.

- (2) In particular and without prejudice to the generality of the foregoing power such rules may-
  - (a) prescribe the routes by which alone timber or other forestproduce be imported exported or moved into, from or within the State:
  - (b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;
  - (c) provide for the issue, production and return of such passes and for the payment of fees therefor;
  - (d) provide for the stoppage reporting, examination and making of timber or other forest-produce in transit or at the prescribed check-posts, in respect of which an offence is suspected to have been committed or there is reason to believe that any money is payable to the Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;
  - (e) provide for the establishment and regulation of depots, in respect of cases falling under clause (d), to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such marks that may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots;
  - (f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forestproduce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;
  - (g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same, or for providing alternative arrangement for floating timber when public interest may necessitate the obstruction of channel;
  - (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of sawpits or machines for sawing.

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peeling or slicing, converting, cutting, burning concealing or making of timber, the altering of affacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;

- (i) regulate the great or licences within the forest limits and such distance therefrom not exceeding eighty kilometres as may be determined by the State Government in respect of.—
  - (i) the converting or cutting of timber in a saw mill;
  - (ii) the peeling and slicing of timber;
  - (iii) the converting of khairwood into katha; and
  - (iv) manufacturing of charcoal and prescribe fees and condition subject to which such licences may be granted;
- (j) regulate the use of property marks for timber and the registration of such marks; prescribe the time, for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration;
- (k) provide the setting up and regulation of check post or the erection of a barrier or both at such places as the State Government may specify;
- (1) provide for the maintenance of accounts in respect of such forest-produce as the State Government may notify;
- (m) provide for the protection of bridges, locks or other public works by regulating the floating of timber and the storing of such timber or other forest-produce on liver banks and authorising the seizure of such timber or other forest-produce floated or stored in contravention of such rules or by which any damage to such work may have been caused and the detention and disposal of such timber or other forest-produce until compensation has been paid for the damage done; and
- (n) authorise the transport of timber or other forest-produce across the land and provide for the award and payment of compensation for any damage done by the transport of such timber.
- (3) The State Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.
- 79. Notwithstanding anything in section 78, the Central Government may make rules to prescribe the route by which alone timber or other forest produce may be imported, exported or moved into or from the territories to which this Act extends across any customs frontier as defined by the Central Government, and any rules made under section 78 shall have effect subject to the rules made under this section.

Powers
of
Central
Government
as to
movements of
timber
across
customs
frontiers,

80. Notwithstanding anything contained in the provisions under this Chapter, the Central Government, in consultation with the State Governments concerned, may make rules for the inter-State movement of antiforest-produce or class of forest-produce specified in the notification under section 77 of this Act:

Provided, however, that there shall be rules for the control of the inter-State movement of sandalwood, rosewood and red sanders wood.

Powers
of the
Central
Government to
make
rules for
the interstate
movement of
forestproduce.

81. The contravention of the provisions of this Chapter or of any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for breach of rules made under section 78.

82. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while in transit or at a depot established under rules made under section 78, or while detained elsewhere, for the purposes of this Act, and no Forest-Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and Forest-Officer not liable for damage to forest produce at depot.

83. In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the Government or by any private person, shall render assistance to any Forest-Officer or Police Officer demanding his aid in averting such danger or securing such property from damage or loss.

All persons bound to aid in case of accident at depot.

## CHAPTER XI

# COLLECTION OF DRIFT AND STANDARD TIMBER

- 84. (1) All timber found adrift, beached, standard or sunk and all wood or timber bearing marks which have not been registered in accordance with the rules made under section 78, or on which the marks have been obliterated, altered or defaced by fire or otherwise and in such areas as the State Government directs, all unmarked wood and timber, shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.
- (2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rules made under section 90, and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.
- (3) The State Government may, by postification in the official Gazette, exempt any class of timber from the provisions of this section.

Certain kinds of timber to be deemed property of Government until title thereto proved. and may be collected accordingly.

Notice to claimants of drift timber.

- **85.** (1) Public notice shall from time to time be given by the Forest-Officer of timber collected under section 84.
- (2) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date of such notice a written statement of such claim.

Procedure on claim preferred to such timber.

- 86. (1) When any such statement is presented as aforesaid, the Forest-Officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.
- (2) If such timber is claimed by more than one person, the Forest-Officer may either deliver the same to any of such persons who he deems entitled thereto, or may refer the claimants to the Civil courts, and retain the timber pending the receipt of an order from any such court for its disposal.
- (3) Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-Officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.
- (4) No such timber shall be subject to process of any civil, criminal or revenue Court until it has been delivered, or a suit has been brought, as provided in this section.
- (5) Where the matter is pending before a Court under this section, the Divisional Forest-Officer may, with the permission of the courts instead of retaining the timber under sub-section (2) sell the timber in public auction and remit the sale proceeds in the nearest Government treasury:

Provided that the Court may deal with the proceeds of the sale of any such timber as it would have dealt with such timber if it has not been sold.

Disposal of unclaimed timber. 87. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 85, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 86, the ownership of such timber shall vest in the Government or, when such timber has been delivered to another person under section 86, in such other person free from all encumberances not created by him.

88. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 84 and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and its officers not liable for damage to such timber.

89. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-Officer or other person, entitled to receive such sum on account thereof as may be due under any rule made under section 90.

Payments to be made by claimant before timber is delivered to him.

Power to

prescribe

make rules and

- 90. (1) The State Government may make rules to regulate the following matters, namely:—
  - (a) the salving, collection and disposal of all timber mentioned in section 84;
    - penalti**es.** sed in
  - (b) the use and registration of boats and other vehicles used in salving and collecting timber;
  - (c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and
  - (d) the use and registration of hammers and other instruments to be used for marking such timber.
- (2) The contravention of the provisions of this Chapter or any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

### CHAPTER XII

### PENALTIES AND PROCEDURE

91. (1) When there is reason to believe that forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, ropes, chains, boats, vehicles, or cattle used in committing any such offence, may be seized by any Forest-Officer or Police Officer.

Selzure
of property liable to
confiscation.

(2) Every officer sezing any property under this section shall place on such property or the receptacle if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that it shall not be necessary to make a report of such seizure to the Magistrate in the following cases, namely:—

(i) when the forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient to make a report of the circumstances to the authorised officer,

- (ii) when the offence falls under the purview of section 100.
- (iii) when the Forest-Officer or Police Officer may if he has reason to believe that a vehicle has been or is being used for the transport of any forest-produce in respect or which a forest offence has been committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to goods carried, which are in possession of such driver or other person incharge of the vehicle.

Penalty for forcibly opposing Seizure. 92. Whoever forcibly opposes the seizure of tools, ropes, chains, boats, vehicles or cattle, liable to be seized under this Act, and whoever rescues the same after seizure shall be punishable with imprisonment for a period not exceeding one year or with fine not exceeding one thousand rupees or with both.

Power to release property seized under section 91. 93. Any Forest-Officer of a rank not below that of a Ranger who, or whose subordinate, has seized any tools, ropes, chains, boats, vehicles or cattle under section 91 may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made except in respect of offences falling under section 100 for which the procedure laid down in that section shall be followed.

Procedure thereupon. 94. Upon the receipt of any report under sub-section (2) of section 91, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Forestproduce, tools etc. when liable to confiscation.

- 95. (1) All timber or forest produce which is not the property of Government and in respect of which a forest-offence has been committed and all tools, ropes, chains, boats, vehicles or cattle used in committing any forest-offence shall be liable to confiscation.
- (2) Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal
on conclusion of
trial for
forestoffence
of produce in
respect of
which it
was committed.

96. Without prejudice to the provisions contained in section 100, when the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-Officer, and, in any other case, may be disposed of in such manner as the Court may direct.

to the Magistrate.

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97. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-Officer or to be made over to the person when the Magistrate deems to be entitled to the same:

Procedure when offender not known, or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section

**98.** (1) The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 9L and subject to speedy and natural decay:

it is not possible to obtain the orders of the Magistrate in time, such officer

may sell the property himself, remit the sale proceeds into the Govern-

ment treasury and may make a report of such seizure, sale and remittance

Provided that if, in the opinion of the officer seizing such property,

(2) The Magistrate may deal with the proceeds of the sale of any property sold under sub-section (1) as he would have dealt with such property if it had not been sold.

- 99. The officer who made the seizure under section 9L or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 95, section 96, or section 97 appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.
- 100. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest-offence is believed to have been committed in respect of sandalwood, rosewood, ivory or such other forest-produce as may be notified by the State Government from time to time, the officer seizing the property under sub-section (1) of section 9L shall without any unreasonable delay produce it together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence before an officer not below the rank of an Assistant Conservator of Forests authorised by the Government in this behalf by notification in the Official Gazette hereinafter referred to as authorised officer.
- (2) Where an authorised officer himself seizes any property mentioned in sub-section (1) above or where any such property is produced before him under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such property, he may order that any property of the Government so seized be taken charge of by a Forest Officer and the rest of the property so seized be confiscated and a copy of such order shall be sent to the authority competent to exercise revisional powers under section 102.
- 101. (1) No order under sub-section (3) of section 100 shall be made unless the person from whom the property is seized or who is believed to be the owner of the property,

Appeal from orders under section 95, section 96 or section 97. Confiscation of tools, etc. by Forest Officer in

certain

cases.

Issue of show-cause notice before confiscation under section 100,

- (a) is given a notice in writing informing him of the grounds on which it is proposed to take action under sub-section (2) of section 100:
- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and
- (c) is given a reasonable opportunity of being heard in the matter.
- (2) Without prejudice to the provisions of sub-section (1), no order confiscating any property so seized shall be made under section 100 if the owner of such property proves to the satisfaction of the authorised officer that it was used in the commission of the forest-offence without the knowledge or connivance of the owner himself, his agent, if any, or any person in charge of such property and that each of them had taken all reasonable and necessary precautions against such use.

Revision.

102. Any Forest Officer not below the rank of Conservator of Forests, authorised by the Government in this behalf by notification in the Official Gazette, may, before the expiry of thirty days from the date of the order of the authorised officer under section 100 suo moto call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and pass any such order as he deems fit provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

Appeal.

103. Any person aggrieved by an order passed under section 100 or section 102 may, within sixty days of the order so passed, appeal to the District Judge having jurisdiction over the area in which the property, to which the order relates, has been seized and the District Judge shall, after giving an opportunity to the appellant to be heard, pass such order as he deems fit confirming, modifying or annulling the order so appealed against and the order of the District Judge shall be final.

Award of confiscation not to interfere with other punishment.

104. The order of confiscation under section 100 or section 102 shall not prevent the infliction of any other punishment to which the person affected thereby is liable under this Act.

Property when to vest in Government.

165. When an order for the confiscation of any property has been passed under section 95, section 97 or section 99, as the case may be, and the period limited by section 99 and section 103 for an appeal from such order has clapsed, and no such appeal has been preferred, or when, on such an appeal being referred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized. 106. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 91.

45 of 1860

107. Any Forest-Officer or Police-Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both.

Punishment for wrongful seizure.

108. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Fenal Code.

Penalty for counter-feiting or defacing marks on trees and timber and for altering boundary marks.

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
- (b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-Officer; or
- (c) alters, moves, destroys or defaces any boundary mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and also with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees.

109. (1) All offences under this Act shall be cognizable and any Forest-Officer or Police-Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence.

Power to arrest without warrant.

- (2) Every officer making an arrest under this section—shall, without un-necessary delay and subject to the provisions of this Act as to—release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police station.
- 110. Any Forest-Officer of rank not below that of a Forest Ranger or Police Officer of rank not below that of a Sub-Inspector of Police within whose limits an offence under this Act has been or suspected to have been committed shall have the power to proceed to any place in any other State to arrest the accused and seize the property, involved in the offence and take such action incidental thereto, if such accused or property are found or suspected to be found in such place in such other State in accordance with the rules which may be prescribed in this regard.

Right to proceed to any place in any other State to arrest the accused, etc.

111. Any Forest Officer of rank not below that of a Forest Ranger or a Police of rank not below that of a Sub-Inspector of Police, who or whose subordinate, has arrested any person under the provisions of section 109 or section 110, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

Power to release on a bond a person arrested.

Power to prevent commission of offence. 112. Every Forest Officer, Police Officer and Revenue Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

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Punishment for abetment.

- 113.(1) Any person who abets any of the offences specified in this Act shall, if the offence abetted is committed in the consequence of the abetment, be punishable with the same punishment as provided for the offence abetted.
- (2) If the offence abetted is not committed the punishment for abetment shall be up to one fourth of the maximum punishment provided for the said offence.

Punishment for knowingly receiving any forest produce illicitly removed. 114. Any person who dishonestly receives or retains in his possession any forest-produce illicitly removed, knowing or having reason to believe the same to be removed, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for offence committed under aggravating circumstances. 115. Any person who commits any of the offences specified in this Act after sun-set and before sun-rise, or after preparation for resistance to lawful authority, or whert the offender has been previously convicted of a like offence, or persists in continuing the offence after being warned by a Forest-Officer or Police-Officer or Revenue Officer against it, shall be punishable with double the penalty prescribed for such offence.

Power to try offences summarily. 116. A Magistrate of the second class or a Forest-Officer of a rank not lower than that of a Deputy Conservator of Forests acting as Special Magistrate, specially empowered in this behalf by the High Court may try summarily, under the Code of Criminal Procedure, 1973, any forest-offence punishable with imprisonment for a term not exceeding one year or one thousand rupees or with both.

Power to compound offences.

- 117. (1) The State Government may, by notification in the Official Gazette, empower a Forest Officer.
  - (a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 107 or section 108, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
  - (b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.
- (2) On the payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released and no further proceedings shall be taken against such person or property.
- (3) A Forest-Officer shall not be empowered under this section unless he is a Forest-Officer of a rank not below that of a Forest Ranger and the

sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed such limits as may be fixed by the State Government.

118. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that forest produce belongs to Government.

119. Nothing in this Act shall be deemed to bar the prosecution of any person under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any other higher punishment or penalty than that provided by this Act, or the rule made thereunder:

Operation of other laws not barred.

Provided that no person shall be prosecuted and punished for the same offence more than once.

### CHAPTER XIII

#### CATTLE-TRESPASS

120. Cattle trespassing in a reserved forest or in any portion of a protected forest or other classes of land to which the provision of this Act apply and which are lawfully closed to grazing shall be deemed to be cattle doing damage to public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest Officer or Police Officer or Revenue Officer.

Cattletrespass Act, 1871 to apply.

1 of 1871.

121. The State Government may, by notification in the Official Gazette, direct that, in lieu of the fines fixed under section 12 of the Cattle trespass Act,, 1871, there shall be levied for each head of cattle impounded under section 120 of this Act such fines as it thinks fit.

Power to alter fines fixed under that Act.

#### CHAPTER XLV

### FOREST-OFFICERS

- 122. (1) The State Government may invest any Forest-Officer with all or any of the following powers, that is to say:—
  - (a) power to enter upon any land and to survey, demarcate and make a map of the same;
  - (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
  - (c) power to issue a search-warrant under the Code of Criminal Procedure, 1973; and
  - (d) power to hold an inquiry into forest-offences, and in the course of such inquiry to receive and record evidence.
- (2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

State Government may invest forest officers with certain

powers.

2 of 1974.

Power of entry, inspection, investigation and prosecution.

123. Any Forest-Officer may at any time enter and inspect any private forest or land within his jurisdiction for the purpose of ascertaining whether there has been contravention of any of the provisions of this Act or the rules made thereunder or for the purpose of securing compliance with any such provision.

Lawful for forestofficer to conduct prosecution,

124. It shall be lawful for any Forest-Officer of a rank not lower than that of a Forester to lay any information before a Magistrate and to apply for summons, warrant, search-warrant, or such other legal process as he may by law issue against any person committing an offence and to conduct prosecution of such person upto final decision.

Forest-Officers deemed public servants.

125. All Forest-Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

45 of 1860.

Indemnity for acts done in good faith.

- 126. (1) No suit or criminal prosecution or other legal proceedings shall lie against any public servants for anything done by him in good faith under this Act.
- (2) No court shall take cognizance of any offence alleged to have been committed by a Forest Officer in the discharge of his official duties except with the previous sanction of the authority competent to remove him from his office.

Forest-Officers not to trade. 127. Except with the permission in writing of the State Government no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or becomes interested in any lease of any forest, whether in or outside the territories to which this Act extends.

#### CHAPTER XV

#### SUBSIDIARY RULES

Additional powers to make rules.

- 128. The State Government may make rules (a) to prescribed and limit the power and duties of any Forest-Officer or Police Officer or Revenue Officer under this Act;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber or forest produce belonging to Government, but grown on lands belonging to private persons; and
  - (d) generally, to carry out the provisions of this Act.

Penalties for breach of rules. 129. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

130. All rules made by the State Government under this Act shall be published in the Official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

Rules when te have forca of law.

#### CHAPTER XVI

#### MISCELLANEOUS

131. (1) Every person who exercise any right in a reserved or protected forest or village forest or who is permitted to take any forest-produce from or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-Officer or Police Officer any information he may possess respecting the commission of, or intention to commit, any forest-officer or Police-Officer or not,—

Persons bound to assist Forest-Officers and Police-Officers.

- (a) to extinguish any forest fire in such forest of which he has knowledge or information;
- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest Officer or Police Officer demanding his aid;

- (c) in preventing the commission in such forest of any forest-offence; and
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.
- (2) Any person who, being bound to do so, without lawful excuses (the burden of proving which shall lie upon such person) fails—
  - (a) to furnish without unnecessary delay to the nearest Forest-Officer or Police Officer any information required by sub-section (1);
  - (b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved forest or protected forest;
  - (c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or
  - (d) to assist any Forest-Officer or Police-Officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

Management of forests or the land, the jointproperty  $\mathbf{p}$ Government. and other persons.

- 132. (1) If the State Government and any person be jointly interested in any forest or waste-land or in the whole or any part of the produce thereof, the State Government may either-
  - (a) undertake the management of such forest, waste-land or forest-produce, accounting to such person for his interest in same: or
  - (b) issue such regulations for the management of the forest, waste-land or forest-produce by the person so jointly interested as it deem necessary for the management—thereof and the interests of all parties therein.
- (2) When the State Government undertakes under clause (a) of sub-section (1) the management of any forest, land or forest-produce. it may, by notification in the Official Gazette, declare that any of the provisions contained in Chapters II and III shall apply to such forest, land or produce, and thereupon such provisions shall apply accordingly.

133. The State Government may, by notification in the Gazette, declare that any of the provisions of this Act shall apply to all or any lands which are the property of the State Government or a local authority and thereupon such provisions shall apply to such lands accordingly.

Power to Government to apply provisions of this Act to certain lands of Government of local authority.

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134. If any person, be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the State Government that such service is no longer so performed:

Provided that no such share shall be confiscated until the person evidence, if any, which he may produce in entitled thereto and the proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the State Government.

- Recovery of money due to Government.
- 135. (1) All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or under any contract relating to timber and other forestproduce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest-produce by auction or by invitation of tenders, issued by or under the authority of a Forest-Officer and all compensation awarded to the Government under Act, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due be recovered under the law for the time being in force as if it were an arrear of land-revenue.
- (2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall also apply to all cases of recovery which are either pending at the commencement of this Act or are initiated

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there after in respect of contracts entered into prior to such commencement, any judgement, decree or order of any court to the contrary not-withstanding.

136. (1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

Lien on forest produce for such money.

- (2) If such amount is not paid when due, the Forest-Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.
- (3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

137. Wherever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act 1894.

138. When any person, in accordance with any provision of this Act, or in compliance with any rule, or binds himself by and bond or instrument to perform any duty or act, or convenants by any bond or instrument that, he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in tase of a bound of the instrument as the amount to be paid in tase of a bound of the instrument as the amount to be paid in tase of a bound of the instrument as the amount to be paid in tase of a bound of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.

Recovery of Penalties due under bond.

139. Nothing in this Act shall authorise a Government of any State to make any order or do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government of any other State without the consent of the Government concerned.

Saving for rights of Central Covernment.

140. Every rule made by any State Government under this Act, shall be laid, as soon as may be after it is made, before the State Legislature.

Bules to be laid before State Legislature.

141. The Indian Forest Act, 1927 and the Forest (Conservation) -Act, 1980 are hereby repealed.

Enactment<sub>s</sub> repealed.

16 of 1927. 69 of 1980.

1 of 1894.

# STATEMENT OF OBJECTS AND REASONS

The Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980 do not fulfil the requirements regarding protection of forests and environment. They also do not protect the rights of those who depend on the forests for their survival.

The Bill is an attempt towards protection of environment as well as of the rights of tribals, etc. who depend on the forests.

NEW DELHI;

CHANDUBHAI DESHMUKH

July 16, 1991.

### FINANCIAL MEMORANDUM

The Bill enables the State Governments to constitute forest courts and to appoint certain forest officers for carrying out the provisions of the Act. Of course, at present the State Governments have the requisite machinery to take care of forests. And even if some officers are to be appointed, the expenditure in respect of constitution of courts and appointment of officers will be met by the States from their respective consolidated funds.

The Bill, if enacted, therefore, does not involve any additional expenditure of either recurring or non-recurring nature, from the Consolidated Fund of India.

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# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 gives power to State Governments to make rules for protected forests. Clause 78 gives power to make rules for regulating possession or transit of forest produce. Clause 90 gives power to make tules and prescribe penalties. Clause 128 gives additional power to make rules. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

# Впл No. 101 от 1991

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:--

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 1991.

Short title.

- 2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950, in Part III.—Bihar,—
  - (i) after entry 2, the following entry shall be inserted, namely:— "2A. Beldar";
  - (ii) after entry 5, the following entry shall be inserted, namely:— "5A. Bind";
  - (iii) after entry 15, the following entry shall be inserted, namely: -

"15A. Khatik"; and

(iv) after entry 22, the following entry shall be inserted, namely: ---

"22A. Surajbanshi".

Amendment of the Sche-

dule.

### STATEMENT OF OBJECTS AND REASONS

In the Constitution (Scheduled Castes) Order, 1950, several castes which are recognised as Scheduled Castes in other States, particularly in neighbouring State of West Bengal, have not been included in the list of Scheduled Castes in the State of Bihar. In some cases, the same social group is recognised as a Scheduled Caste in one State while across the border it is not recognised as such. The Bill seeks to remove this discrepancy.

Hence this Bill,

NEW DELHI;

SYED SHAHABUDDIN

July 15, 1991.

# Вил No. 95 от 1991

A Bill to provide for the payment of minimum wages and for welfare of agricultural workers.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Agricultural Workers (Minimum Wages and Welfare) Act, 1991.
  - (2) It extends to the whole of India,
  - (3) It shall come into force at once.
  - 2. In this Act, unless the context otherwise requires,—
  - (a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Government or the administration, as the case may be, of the Union territory;

Short title, extent and commencement.

Defini-

- (b) 'Authority' means the Authority appointed by the appropriate government under section 3;
- (c) 'employer' means any person who employs, whether directly or through another person, whether on behalf of himself or on behalf of any other person, one or more workers for any work connected with the agricultural operations on land, which he owns or is managing for somebody else;
  - (d) 'prescribed' means prescribed by rules made under this Act;
- (e) 'wages' means remuneration capable of being expressed in terms of money which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment; and
- (f) 'worker' means an agricultural worker, both men and women, who earns wages on daily or any other basis.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish an Agricultural Workers Welfare Authority.

(2) Every Authority shall have such set-up and such powers as the appropriate Government may determine from time to time.

4. (1) Every Authority shall,—

- (a) maintain land records from village or panchayat level to district level;
- (b) maintain a district-wise register of agricultural workers with such particulars and in such manners as may be prescribed;
- (c) maintain a district-wise register of employers with such particulars and in such manner as may be prescribed; and
- (d) regulate the service conditions of agricultural workers in such manner as may be prescribed.
- (2) The Authority shall perform such other functions as may be assigned to it by the appropriate Government from time to time.

Punishment to unregistered employer.

- 5. (1) No employer shall engage any worker unless he has registered himself with the Authority.
- (2) If an unregistered employer engages any person for working on his land, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Minimum Wages to be paid to workers.

6. Every employer shall pay a minimum of rupees seven hundred per month or rupees thirty per day to a worker engaged by him for work on his land and this rate of wages shall be subject to change in accordance with the rise in price index.

Establishment of Agricultural Workers Welfare Authority.

Functions of the Authority.

7. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service rendered by the worker in a month or a year.

Counting of period of service workers.

8. (1) The Central Government shall constitute a fund to be called the Agricultural Workers Welfare Fund for the welfare of agricultural workers.

Constitution of Аргіcultural Workers Welfare Fund.

(2) Such fund shall be distributed to each of the respective Authorities in the ratio of agricultural workers registered in the respective areas.

> Scheme for pension cum-provident fund.

9. There shall be formulated a Scheme by the appropriate Government for providing pension-cum-provident fund facility out of the fund created under section 8 to the workers on their attaining the age of fifty-five years.

10. The dependent of any worker who dies while working shall be paid lumpsum of rupees one thousand or more depending upon the service the worker has rendered and his age, out of the fund created under section 8.

Compensation for death while working,

11. Every Authority shall submit to the appropriate Government, such periodical returns including a district-wise list of the workers registered with that Authority, within such intervals and with such particulars, as may be prescribed.

Periodical returns.

12. No employer shall, before engaging any worker, notify his need of workers to the Authority within whose jurisdiction his land is situated.

Employer to notify his need of workers to the Authority.

13. No employer shall reject a worker on the ground that he is not capable of performing a particular job.

Employer not to reject worker.

14. There shall be set up an Advisory Council by the Central Government, to advise the appropriate Government on the implementation of the provisions of this Act.

Advisory Council.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

# STATEMENT OF OBJECTS AND REASONS

At present there is no legal protection for agricultural workers in regard to their working conditions, wage structure, pension and other social security measures and covering of risk. Their condition is becoming worse day by day. Many workers die while doing the job and their families are ruined as there is no protection to their families. Considering the vast number of agricultural workers and their contribution to the national wealth, it is high time that this vital section of the society is given all possible legal protection.

Hence this Bill.

New Delhi; July 18, 1991. CHANDUBHAI DESHMUKH.

# FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government, shall establish an Agricultural Workers Welfare Authority.

Clause 8, provides for the constitution of an Agricultural Workers Welfare Fund.

Clause 14, provides that the Central Government, shall set up an Advisory Council to advise the appropriate Government, on the implementation of the provisions of the Act. The Central Government shall have to provide financial assistance to Government of the States to carry out the provisions of the Bill. This Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve recurring expenditure of about rupees forty crores per annum. Non-recurring expenditure of about rupees fifty lakhs is also likely to be involved from the Consolidated Fund of India.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government of frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of details only, the delegation of the legislative powers is of a normal character.

#### Bill No. 115 or 1991

A Bill to provide for adequate representation of Scheduled Castes and Scheduled Tribes in posts and services under the Government of India.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Reservation of Vacancies in Posts and Services (For Scheduled Castes and Scheduled Tribes) Act, 1991.
  - (2) It shall extend to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in that behalf.
  - 2. In this Act, unless the context otherwise requires,—

(a) "appointing authority in relation to a service or post in an establishment" means the authority empowered to make appointment to such service or post;

(b) "establishment" means any office of the Central Government, public sector undertaking or statutory authority constituted under any Central Act for the time being in force or a Corporation in which not less than 51 per cent, of the paid up-share capital is held up by the Central

Short title extent and commence-ment.

Defini-

Government and includes Universities and colleges affiliated to universities, primary and secondary schools and other educational institutions which are owned or aided by the Central Government;

- (c) "establishment in public sector" means any industry, trade business or occupation owned, controlled or managed by—
  - (i) Central Government or any Department of the Central Government;
- (ii) any Government company as defined in section 617 of the Companies Act. 1956 or a corporation established by or under a Central Act;

1 of 1956.

- (d) "prescribed" means prescribed by rules made under the Act;
- (e) "recruitment year" means the financial year during which a recruitment is actually made;
- (f) "reservation" means reservation of vacancies in posts and services for the Scheduled Castes and Scheduled Tribes;
- (g) "Scheduled Castes" mean the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article 341 of the Constitution of India as amended from time to time;
- (h) "Scheduled Tribes" mean the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India as amended from time to time.
- (i) "select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the Central Government in that behalf and adopted by the competent authority for making appointments in respect of initial recruitment and promotion.

Application of the Act 3. This Act shall apply to all appointments to the posts and sevices under the Central Government establishments including those in Public sector and the statutory authorities including universities and colleges affiliated thereto and other educational institutions owned or aided by Central Government.

Determination of the percentage to be reserved.

- 4. (1) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes.
- (2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the Central Government may, from time to time, by order published in the Official Gazette determine:

Provided that in the case of initial recruitment, the percentage so determined shall, in no case he less than the percettage of the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, in the total population as recorded in the latest census.

Prescription of rosters for vacancies.

- 5. (1) The Central Government shall prescribe model rosters indicating the number of vacancies to be reserved for the Scheduled Castes and the Scheduled Tribes and the number to be left unreserved.
  - (2) The appointing authorities shall maintain rosters in the prescribed form.

(3) The rosters shall be consulted for ascertaining the number of reserved vacancies.

6. The reserved vacancies in appointments shall be exchanged between the Scheduled Castes and the Scheduled Tribes in the event of non-availability of recruitment years, and, if candidates are not available for appointment in particular category shall continue to be reserved for that category only for two recruitment years, and, if candidates are not available for appointment in particular reserved vacancies in the third year, the vacancy to filled by exchange shall be treated as reserved for the candidates of that particular category who are actually appointed.

Exchange of reservation between communities.

7. If, in any recruitment year, the number of candidates either from the Scheduled Castes or the Scheduled Tribes is less than the number of vacancies reserved for them even after exchange of reservation between the Scheduled Castes and the Scheduled Tribes, the remaining vacancies may be advertised exclusively for Scheduled Castes and/or Scheduled Tribes to make special recruitment for them. If still the candidates from the Scheduled Castes and the Scheduled Tribes are not available, the reserved posts may be filled up by general candidates, after temporarily de-reserving the vacancies in the prescribed manner. The vacancies so de-reserved may be carried forward to subsequent five years of recruitment as prescribed for particular category of posts.

De-reservation of vacuncies.

8. (1) If, no suitable Scheduled Castes and Scheduled Tribes candidates are available for the posts and services reserved for them, even after following the aforesaid procedure, the concerned Ministry/Department of Government of India, Public Corporation, etc. shall communicate the number of and qualifications for such posts to the Ministry as may be prescribed under the rules, and it shall be the duty of the said Ministry to select the appropriate number of Scheduled Castes and/or Scheduled Tribes candidates for whom the posts and services were initially reserved, and to train them at their own expense in the appropriate institutions.

Special arrangements for imparting technical training.

- (2) On satisfactory completion of such training, such candidates shall be appointed to the reserved posts.
- (3) The services of the general candidates, if any, who might have been appointed, on ad hoc basis, against the reserved vacancies, shall stand terminated, as and when a Scheduled Caste or Scheduled Tribe candidate, as the case may be, is appointed and joins the concerned post.
- 9. For initial appointment of the candidates from the Scheduled Castes and the Scheduled Tribes—
  - (a) the upper age limit prescribed for recruitment shall be increased by the five years;
  - (b) fees prescribed for admission into competitive examination or interview for recruitment shall be reduced to one-fourth;
  - (c) they shall be paid travelling allowance to attend competitive examination or interview by the Union Public Service Commission, Staff Selection Commission or any other recruitment agency, office or body, at such rate as may be prescribed.

Relaxation of age, fee and payment of travel\_ ling allowance.

Process of selection and relaxation of qualifications.

- 10. (1) For recruitment through Employment Exchange in the requisition sent to the Exchange, the number of vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall be specified against the total number of vacancies.
- (2) For recruitment made through the Union Public Service Commission or any Selection Board, agency or office, on the basis of competitive examination or interview, the advertisement shall specify the number of vacancies reserved for the Scheduled Castes and the Scheduled Tribes against the total number of vacancies reserved.
- (3) In the obsence of wider choice and whee the number of the Scheduled Caste and Scheduled Tribe candidates is either equal to or less than the number of vacancies, they shall be considered suitable and recruited to the extent against those vacancies if they possess the minimum qualifications required for the posts or services:

Provided that the qualifying marks, in all the recruitment examinations, for the Scheduled Caste and the Scheduled Tribe candidates in the aggregate may be relaxed by ten per cent, by the Central Government or the Union Public Service Commission:

Provided further that in case adequate number of the Scheduled Caste or the Scheduled Tribe candidates do not qualify a prescribed test, such of the candidates who have appeared in the test and who fulfil the prescribed educational qualification, but have failed in the prescribed test shall be arranged in the order of their merit and recruited on probation against such or remaining vacancies subject to passing the prescribed in-service training course within the period of probation.

- (4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.
- (5) If, after holding the special recruitment, the required number of candidates belonging to Scheduled Castes or the Scheduled Tribes are still not available or, if, the number of such candidates is less than the number of reserved vacancies, the vacancies which remain unfilled shall be temporarily filled by general candidates in accordance with procedure laid down in sections 6 and 7.

Promotion on the basis of seniority.

- 11 (1) Where promotion is to be made on the basis of seniority subject to fitness, the senior most Scheduled Castes and Scheduled Tribes officials shall be promoted to the next higher post or grade against reserved vacancies provided they prossess the minimum qualifications and experience at relaxed standard required for such promotion.
- (2) The number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under section 5.

12. Where promotion is to be made on the basis of selection, the procedure for filling up of the reserved vacancies shall be such, as may be prescribed, and the number of reserved vacancies shall be determined

Promotion on voluetion, on the basis of the reserved points shown in the roster maintained under section 5. The zone of the consideration shall be six times the number of posts or vacancies.

13. Where selection is to be made from different services the recruiting or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of the reserved quota, provided such candidates satisfy the minimum conditions of qualifications and experience laid down in respect of the posts concerned.

Selection from different services.

14. In posts/services filled by direct recruitment or promotion, reservation is to be made for the Scheduled Castes and Scheduled Tribes at the time of confirmation at the prescribed ratio.

Reservation in confirmation,

15. (1) Every appointing authority shall furnish to the Government in the prescribed manner an annual report on appointments by the end of the month of July of the succeeding financial year and maintain such other records as may be prescribed

Annual report of oppoints:

- (2) Any officer authorised by the Central Government in that behalf may inspect any record or documents, and require the appointing authority to produce the roster and other records relating to appointments made by him which are maintained in his office.
- (3) It shall be the duty of the appointing authority to produce such records and documents and furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose
- 16. In each Ministry, Department or establishment, an officer of senior rank, authorised by the Government or chief executive authority of an autonomous body, etc. in that behalf shall act as liasion officer in respect of the matters provided in this Act. He shall be specially responsible for—

Responsibility of Heads of Departments.

- (a) ensuring proper implementation of the provisions of this Act and the rules made thereunder;
  - (h) ensuring compliance by the subordinate authorities;
  - (c) ensuring timely submission of returns;
- (d) conducting annual inspection of roster and such other records;
- (e) ensuring necessary assistance to the Commission for Scheduled Castes and Scheduled Tribes, Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, any other Agency or statutory body appointed by the Government to investigate the complaints received from organisations or individuals belonging to the Scheduled Castes and Scheduled Tribes.
- 17. There shall be a Standing Committee consisting of the following members, namely:—

Standing Committee,

- (a) Prime Minister—Chairman;
- (b) Minister of Home Affairs-Member;
- (c) Three Members of Parliament belonging to Scheduled Castes/ Tribes to be nominated by the Government—Members:

(d) Minister-incharge for the Welfare of Scheduled Castes/Tribes—Member; and

(e) Cabinet Secretary-Secretary.

Functions of the Standing Committee.

- 18. The Standing Committee appointed under section 17 shall perform the following functions, namely:—
  - (a) review of the implementation of the provisions of this Act and the rules made thereunder, twice in a financial year;
  - (b) suggest measures for the removal of difficulties in such implementation or for the improvement thereof; and
  - (c) perform such other functions as the Central Government may, from time to time, assign to the Committee.

Annual report to be laid before Parliament.

19. The Central Government shall prepare an annual report on the working of this Act and lay it before each House of Parliament for a period of not less than fifteen days in the Budget Session of the succeeding financial year.

Penalty.

20. If an appointing authority makes an appointment in contravention of the provisions of this Act, he shall be punishable with fine which may extend to rupees five thousand or simple imprisonment for one year or both:

Provided that special provisions shall be prescribed by appropriate authority when the appointing authority is other than Government, Public Corporation, Autonomous body, etc.

Cognizance. 21. No prosecution for an offence under this Act shall be instituted except by or with the sanction of the Central Government.

Removal of difficulties. 22. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as appear to it to be necessary for removing the difficulty.

Inspection of Records, 23. Notwithstanding anything contained in the Central Services (Conduct) Rules, any member of Scheduled Caste or Scheduled Tribe, who is adversely affected on account of the non-compliance with the provisions of this Act or the rules made thereunder by any appointing authority, may bring the fact to the notice of the Central Government or the Commission for Scheduled Castes and Tribes, and upon application made by him, the Central Government or the Commission for Scheduled Castes and Tribes may call for such records or take such action thereon as it may think fit.

Power to make rules.

- 24. (1) The Central Government may, after previous publication in the Official Gazette, make rules for carrying out all or any of the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session.

for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or rule, order or resolution made by the Central Government.

Overriding effect of the Act.

### STATEMENT OF OBJECTS AND REASONS

The provisions of reservation in posts and services having not been codified, there has been apathy and unwillingness on the part of most of the officers in implementation thereof. As a result of this, in none of the Ministries/Departments, Public Undertakings, etc., the quota of Scheduled Castes and Scheduled Tribes is full even after 43 years of independence and 42 years of adoption of the Constitution.

The penalty clause in the Bill will serve as deterrent to the wilful defaulters in implementation of provisions contained in article 335 of the Constitution.

The Bill is intended to ensure implementation of the provisions contained in the Constitution.

NEW DELHI;

CHANDUBHAI DESHMUKH.

July 18, 1991.

# FINANCIAL MEMORANDUM

Clause 8(1) of the Bill provides for special arrangement for imparting Technical Training. Though the exact number of such training centres cannot be assessed at this stage, yet it is estimated a recurring expenditure of rupees ten lakhs is likely to be involved.

No non-recurring expenditure is likely to be involved.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Central Government to make rules to carry out all or any of the purposes of this Act-

These powers are within the ambit of the delegated legislation.

# BILL No. 102 of 1991

A Bill to provide for the establishment of a permanent Bench of the High Court at Madras at Madurai.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows: ---

1. This Act may be called the High Court at Madras (Establishment of a Permanent Bench at Madurai) Act, 1991.

2. There shall be established a permanent Bench of the High Court at Madras at Madurai and such Judges of the High Court at Madras, being not less than three in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Madurai in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the Districts of Madurai, Kattabomman, Chidambaranar, Dindigul-Quaid-Milad, Tirunelyeli Pasumpen Devar Thirumagan, Kamarajar. Ramnad, Kanyakumari and

Tiruchirapalli.

Short title.

Establishment of a permanent Bench of High Court at Madras at Madurai,

#### STATEMENT OF OBJECTS AND REASONS

There has been a persisting demand for setting up a permanent Bench of the High Court at Madras at Madurai. More than 1,25,000 cases have been pending in Madras High Court for quite a long time.

It would be appropriate if a Bench of the Madras High Court is established at Madurai. Medurai city is a central place and has all modern facilities of communication and transport. As of now, people belonging to southern districts of Tamil Nadu have to travel to Madras in connection with their cases. It is a time consuming and costly affair.

In the interest of speedy and cheap justice and convenience of the litigant public it is necessary to establish a bench of the High. Court at Madras at Madurai. It may not be out of place to mention that the Committee appointed to go into issues relating to setting up of Benches of various High Courts recommended setting up of one such Bench at Madurai of the Madras High Court.

The Bill seeks to achieve the above objective.

New Delhi; July 24, 1991. A. G. S. RAMBABU.

## BILL No. 121 of 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short title.

2. In article 58 of the Constitution, in clause (1), for sub-clause (a), the following sub-clause shall be substituted, namely:—

Amendment of article 58.

- "(a) is a citizen of India by birth,".
- 3. In article 66 of the Constitution, in clause (3), for sub-clause (a), the following sub-clause shall be substituted, namely:—

Amendment of article 66

4. In article 75 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

Amendment of article 75.

"Provided that the person who is appointed as Prime Minister be a citizen of India by birth.".

## STATEMENT OF OBJECTS AND REASONS

The offices of the President, Vice-President and the Prime Minister are the three top position in our country. The incumbents of these posts should not only be Indian citizens but also be Indian citizens by birth. The persons occupying top positions in some countries in Western Europe and in the United States of America are citizens thereof by birth. In order to thwart external interference in our internal affairs and also to ensure that no person having foreign leanings occupies these important positions in our country, it is proposed that only a person who is a citizen of India by birth should hold the offices of the President, Vice-President and the Prime Ministey of India.

The Bill accordingly seeks to amend the relevant articles of the Constitution.

New Delhi:

MOHAN SINGH

July 31, 1991.

## BILL No. 133 of 1991

A Bill to provide for the registration of consumer associations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

## CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Consumer Associations (Registration) Act, 1991.

Short title, extent and commence-

ment.

- (2) It extends to the whole of India except the States of Jammu and Kashmir and Nagaland.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
  - 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the Central Government or the State Government, as the case may be;

(b) "Association" means a consumer association whose object is to protect the interest of consumers;

(c) "consumer dispute" means any dispute as defined in clause (e) of sub-section (1) of section 2 of the Consumer Protection Act, 1986;

68 of 1986.

- (d) "executive" means the body, by whatever name called, to which the management of the affairs of the Association are entrusted;
- (e) "office bearers" means and includes any member of the executive but does not include the auditor;
- (f) "prescribed" means prescribed by regulations made under this Act;
- (g) "registered Association" means an association registered under this Act;
- (h) "registered office" means the office of the Association registered as head office thereof; and
- (i) "Registrar" means a Registrar of Associations, appointed by the appropriate Government under section 3 of the Act.

## CHAPTER II

## REGISTRATION OF ASSOCIATION

Appointment of Registrar.

- 3. (1) The appropriate Government shall appoint a Registrar of Associations for each State.
- (2) The appropriate Government shall appoint as many Assistant Registrars or Deputy Registrars as it may deem fit for the purpose of discharging such powers and functions of Registrar under this Act and it may by order specify and define the local limits in which the Assistant or Deputy Registrar shall exercise and discharge their functions.
- (3) Subject to the provisions of any order made under sub-section (2), where an Assistant Registrar or Deputy Registrar exercises and discharges the powers and functions of Registrar, he shall be deemed to be Registrar in relation to the Associations for purposes of this Act.

Application for Registration

- 4. (1) Any five or more members of an Association by subscribing their names may apply for the registration of an Association under this Act.
- (2) Where the application is made under sub-section (1) for registration of the Association, such application shall not be deemed to be invalid merely by reason of the fact that after the date of submission of application by the Association, some of the applicants but not exceeding half of the total number of persons who made the application ceased to be the members of the Association or have given notice, in writing, to the Registrar disassociating themselves from the Association.

5. (1) Every application under section 4 for registration of the Association shall be made to the Registrar and shall be accompanied by a copy of rules of the Association and the statement containing the following particulars:—

Documents to accompany the application

- (a) the names, occupations and addresses of the members of the Association;
  - (b) the name of the association and address of its head office; and
- (c) the title, names, ages, occupations of office bearers of the Association.
- (2) Where an Association is in existence or has been in existence for more than one year before making the application for registration, there shall be delivered to the Registrar together with application, a general statement of the assets and liabilities of the Association in such form and with such particulars as may be prescribed.
  - 6. (1) An Association shall have a constitution of its own.
- (2) An Association shall not be entitled to registration under this Act unless the rules of the Association provide for the following matters namely:—

Format of the rules of the Association.

- (a) the objects for which the Association has been established;
- (b) the purposes for which the general funds of the Association are applicable;
- (c) the maintenance of the list of members of the Association and adequate facility for inspection of the list by the members of the Association;
- (d) the admission of ordinary members who are engaged in the consumer movement and honorary members as per the constitution of the Association:
- (e) the payment of subscription as provided by the constitution of the Association;
- (f) the manner in which rules may be modified, amended or rescinded;
- (g) the manner in which the executive member other than the office bearer may be appointed or removed;
- (h) the safe custody of funds and annual auditing of the accounts;and
  - (i) the manner in which the Association be dissolved.
- 7. (1) The Registrar may call for further information for purposes of satisfying himself that any application complies with the provisions of section 5 and that the Association is entitled to registration under section 6:

Provided that the Registrar shall refuse to register the Association until the information asked for is supplied.

Power of Registrar to call for further particulars and for alteration of name,

(2) The Registrar may alter the name or refuse to register an association if the name of such association is identical to the name of an association already registered, or which is likely to deceive the public until the name is altered by such Association.

Maintenance of Register.

8. The Registrar on being satisfied that the Association has complied with all the requirements of this Act, enter into a register, maintained in such manner and form, as may be prescribed, the particulars relating to the Association contained in the statements accompanying the application for registration.

Issue of certificate of Registration. 9. The Registrar on registering the Association under section 8 shall issue a certificate of registration in the prescribed form.

Cancellation of registration.

- 10. The registration of the Association may be cancelled or withdrawn by Registrar,—
  - (a) on an application from the Association and after such enquiry as he may make, or
  - (b) if he finds that the certificate has been obtained by fraud or issued by mistake or contravenes any of the provisions of section 6:

Provided that the Registrar before cancelling or withdrawing the Registration, otherwise on an application to that effect from the Association, of an Association, shall send a notice to the Association to that effect and the registration shall not be cancelled or withdrawn before two months from the date of such notice.

Appeal by the aggrieved party.

- 11. (1) Any person aggrieved by the refusal of the Registrar to register the Association or by withdrawal or cancellation of registration of Association within a prescribed period, appeal,—
  - (a) where the head office of the Association is situated within the limits of Presidency town, to the High Court, or;
  - (b) where the head office is situated in any other area, to such Court not inferior to the Court of Additional or Assistant Judge of the principal civil court of original jurisdiction, as the appropriate Government may appoint in this behalf for that area.
- (2) The appellate court may dismiss the appeal or pass order directing the Registrar to register the Association and issue the certificate under section 9, as the case may be, and the Registrar shall comply with the order.
- (3) For purpose of the appeal under sub-section (1), the appellate court shall, so far as may be, follow the same procedure and have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, and the Court may order that whole or part of the cost of the appeal shall be paid to plaintiff and such cost may be recovered as if the same have been awarded in a civil suit under the Code of Civil Procedure, 1908.

5 of 1908.

- (4) If the appeal is dismissed by a Court appointed under clause (b) of sub-section (1), the aggrieved party shall have right to appeal in the High Court of the area in whose jurisdiction the head office of the Association is situated and the provisions of sub-sections (2) and (3) shall apply accordingly.
- 12. All communications and notices to an Association shall be sent at its registered office and notice of any change in such address shall be given within fourteen days of such change to the Registrar, in writing, and the changed address shall be recorded in the register referred to in section 8.

Communication to be sentto registered office.

13. Every Association shall be a body incorporate by the name under which it is registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and right to contract and shall sue or be sued by the said name.

Association to be a body in corporate.

14. The provisions of this Act shall be in addition to and not save as hereinafter expressly provided in derogation of the Companies Act, 1956 or the Societies Registration Act, 1860 or any other law for the time being in force.

Application of certain Acts.

1 of 1956. 21 of 1860.

#### CHAPTER III

# AMALGAMATION, DISSOLUTION, CHANGE OF NAME OF ASSOCIATIONS AND OTHER MISCELLANEOUS MATTERS

15. The general funds of an Association shall not be spent on purposes other than the following—

General

- (a) the payment of salaries, allowances and expenses to office bearers of the Association;
- (b) the payment of expenses of the administration of the registered Association including audit of accounts of the general funds of the Association;
- (c) the prosecution or defence of any legal proceeding to which the Association or any member thereof is a party, when such proceeding is undertaken for the purpose of securing or protecting the rights of the Association or the consumer in relation to the trader or a business contract;
- (d) the conduct of the consumer dispute with a trader or business establishment or any establishment under the control of Government on behalf of the Association or a member thereof or any class of the consumer movement, information and discussion;
- (e) the education, of the consumers in the matter of consumer movement;
- (f) the maintenance and upkeep of periodicals for the purpose of the consumer movement, information and discussion;
- (g) any other work in the furtherance of any object of the Association,

Criminal conspiracy in disputes of the consumer with trade.

16. No office bearer of the Association shall be liable for punishment under sub-section (2) of section 120B of the Indian Panel Code in respect of any agreement made between the members or trader or an undertaking of service unless the offence is an agreement to commit offence.

45 of 1860.

Protection of action taken in good faith.

17. No suit, prosecution or other legal proceeding shall lie against the Association or the office bearers thereof for anything which is done in furtherance of the objects of the Association and in good faith.

Enforceability of the agreement 18. Notwithstanding anything contained in any other law, any agreement entered into by a member of the Association with the trader or an establishment which is detrimental to the interests of the consumers or the Association, shall not be binding on the Association or the other members of the Association and shall be challenged in the appropriate court when such dispute arises:

Provided that nothing in this section shall enable a Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages from the Association or a member thereof for anything done in furtherance of the objectives of the Association.

Right to inspect books of the Association. 19. The account books and list of members of the Association shall be open to inspection by an office bearer or member of the association at such time as may be prescribed.

Disqualifications for membership of the Association.

- 20. A person shall be disqualified to be a member of an Association if—
  - (a) he has not attained the age of eighteen years;
  - (b) he has been sentenced by any court in India for an offence involving moral turpitude and sentenced to imprisonment unless five years have elapsed since his release;
  - (c) he is an office bearer and is actively engaged in the activities of any political party.

Change of name.

21. Any registered Association, with the consent of the two-third of its members and subject to the provisions contained in section 22, can alter the name of the Association and shall intimate to the Registrar immediately about the change in name.

Amalgamation of Association. 22. Any two or more Associations may be amalgamated, with or without dissolution of funds and the constitution, if half of the members of Associations being amalgamated, record their approval to the amalgamation.

23. (1) Notice in writing of amalgamation and change of name in pursuance thereof shall be sent to the Registrar by the Secretary and seven members from amongst the office bearers of the Associations amalgamated.

Notice of change on amal-gamation.

- (2) If the proposed name is identical to the name of any other registered Association and is likely to deceive the public, the Registrar shall refuse to the change of name.
- (3) Save as prescribed in section 22, if the Registrar is satisfied that all the formalities of amalgamation have been complied with, he shall register the change of name and enter into the register as provided in section 8 and the amalgamation and change of name shall come into force from that date.
- 24. The change of the name of the registered Association either on amalgamation or otherwise, shall not affect the obligation of the Association or render defective any legal proceedings which are concluded or are pending or commenced by or against it by its former name and shall be continued in new name.

Effects of change of name and amalga-mation.

25. (1) When a registered Association is dissolved, notice of such dissolution shall be given by the Secretary of the Association to the Registrar, after he is so authorised by a resolution passed by majority of the members.

Dissolution.

- (2) When the dissolution of an Association has been entered by the Registrar in the register, the funds of the Association shall be distributed as per the provisions of the constitution of the Association.
- 26. (1) The office bearers of an Association shall send the annual audited statement of receipts and expenditure during the previous financial year ending on the thirty-first December of every year, alongwith the general statement regarding the constitution of office bearers together with rules, if framed.

Returns.

(2) The Registrar or any person authorised by him may examine the documents sent to him,

## CHAPTER IV

## REGULATIONS

27. The appropriate Government may make regulations for carrying out the purposes of this Act.

Power to make regulations.

- 28. (1) The power to make regulations conferred under section 27 shall be subject to the condition of the regulations being made after previous publication.
- Previous publication of regulations.

(2) The provisions of section 23 of the General Clauses Act, 1897. shall apply to the regulations made under sub-section (1).

10 of 1897.

## CHAPTER V

## PENALTIES AND PROCEDURE

## Punishment.

29. (1) In case of any default on the part of the Association in giving the notice or sending any statement or any document required under this Act, every office bearer or other person bound by rules to give or send the same shall be punishable with a fine of rupees five for delay of each week:

Provided that the aggregate fine of an office bearer shall not exceed rupees fifty.

- (2) Any person who wilfully makes or causes to be made a false entry in the general statement required under section 5 or in the copy of rules sent to the Registrar, shall be punishable with fine which may extend to five hundred rupees.
- (3) Any person who supplies false information regarding Association and its aims and objects or fails to supply correct copy of regulations, with an intention to deceive any member of an Association or any person intending to become a member, shall be punishable with fine which may extend to two hundred rupees.

Courts to try offences under the Act.

- 30. (1) No court which is inferior to the court of a Presidency Magistrate or Magistrate of First Class shall try the offences under this Act.
- (2) No court shall take cognizance of any offence under this Act unless the complaint is made by or with the permission of the Registrar.
- (3) No offence under this Act shall be entertained which is alleged to have been committed within six months from the date of commencement of this Act.

# STATEMENT OF OBJECTS AND REASONS

The Consumers Protection Act enacted in 1986 provides for the better protection of interests of consumers and for that purpose makes provision for the establishment of Consumers Councils and other authorities for the settlement of consumers' disputes. Several Consumers Associations voluntarily engage themselves in the protection of interest of consumers. In the absence of a law for the registration of these Associations they lack certain facilities and face disadvantages and they are not able to effectively take up the cause of the consumers.

The Bill seeks to make an attempt to lay down a procedure for the registration and other ancillary matters regarding these voluntary Associations.

Hence this Bill.

NEW DELHI;

RAM KAPSE

August 1, 1991.

# FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall appoint a Registrar and as many Assistant Registrars or Deputy Registrars as it may deem fit for carrying out the provisions of the Bill. Clause 8 provides for the maintenance of Register for registration of Consumer Associations. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India in respect of appointment of Registrars in Union territories. Some more expenditure may also be involved in respect of administration of the office like salaries and allowances of staff, stationery, etc. The State Governments will bear the expenditure in respect of their States from the respective consolidated funds. However, the Central Government shall bear expenditure in regard to the Union territories.

It is estimated that it is likely to involve an expenditure of rupees five lakhs per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two lakhs is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the appropriate Government to make regulations for carrying out the purposes of the Bill. Since the regulations will relate to matters of details only, the delegation of Legislative power is of a normal character.

# BILL No. 118 of 1991

A Bill to provide for compulsory sterilisation for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Sterilisation Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to all Indian citizens including those who at present are residing outside India.

2. Either wife or husband in the case of every married couple, whose second living child is born after the coming into force of this Act, or who have more than two living children on the date of coming into force of this Act, shall be required to undergo sterilisation.

Short nitle, extent, com. mence-ment and application.

Compulatory sterilisation. Punishment for not following the small family norm.

- 3. After a period of one year from the date of commencement of this Act, if any person procreates another child,—
  - (i) he shall be dismissed from service, if such person is an employee of the Central Government or Union territory administration or any public undertaking under the control of Central Government;
  - (ii) he shall be disqualified from casting vote and contesting any election to the House of the People and Legislative Assemblies of the States;
  - (iii) he shall not hold or cease to hold any post or position in any Board, corporation or any organisation under the control of the Central Government; and
  - (iv) he shall be punished with rigorous imprisonment for a period of three years.

Social benefits etc. not to be given in certain cases.

4 Any living child born to a married couple, who have two or more living children, after a period of one year from the date of commencement of this Act, shall not be given any social or educational benefits extended by the Central Government from time to time and other benefits provided by the Central Government including supply of essential commodities, subsidies, etc. or issued any licences and permits under any law.

Overiding offect of the Act.

5. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

#### STATEMENT OF OBJECTS AND REASONS

There has been unprecedented rise in the population of the country-Today's basic problem is rapidly increasing population. Measures for family planning which have been undertaken by the Government so far have not proved effective as some sections of population are not accepting it internationally. In spite of our alround progress, the country is going backwards. This will have serious repercussions on national, socio-economic scene and it will be difficult to provide basic necessities to the rapidly increasing population. Therefore, there is an immediate need to control the increase in population.

It is proposed that the norm of compulsory sterilisation of either of the spouse having two or more living children should be adopted to control the increase in population irrespective of caste, creed and religion to which they belong. The problem has reached such an extent that it has to be tackled without any delay. Moreover, small families will help in the upbringing of the children in a better manner resulting in the upliftment of the whole nation.

Hence this Bill.

New Delhi; August 5, 1991. RAMESHWAR PATIDAR.

# BILL No. 123 of 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title.

Amendment of article 350A.

- 1. This Act may be called the Constitution (Amendment) Act, 1991.
- 2. In article 350A of the Constitution,-
- (i) for the words "shall be the endeavour", the words "shall be the duty" shall be substituted; and
- (ii) for the words "instruction in the mother-tonuge", the words "teaching of the mother-tongue and for instruction through its medium" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

Article 350A provides for instruction in the mothertongue at primary stage of education to children belonging to linguistic minority groups. Instruction in the mother-tongue at the primary level has two aspects—firstly, the teaching of the mother-tongue and secondly, the use of the mother-tongue as the medium of instruction. Unfortunately, in practice, the second aspect has been virtually ignored. All that has been done, and that too fitfully, is that the facilities for teaching the mother-tongue are provided where at least 40 students in a school or 10 in a class, belonging to a linguistic minority, so desire.

It is felt that proficiency in the mother-tongue has not only a cultural but educative value. As such all children have right to be taught their mother-tongue and through the medium of their mother-tongue. This right should not be restricted by any executive orders, prescribing numerical limits. If necessary, students belonging to a linguistic minority group in a ward/Panchayat, may be suitably aggregated for administrative and financial reasons.

The Bill seeks to clarify both the aspects relating  $t_0$  teaching of and instruction in the mother-tongue.

New Delhi; August 6, 1991.

SYED SHAHABUDDIN.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill, inter-alia, provides that it shall be the duty of the State to provide adequate facilities for teaching of the mother-tongue and instruction through its medium at the primary stage of education to children belonging to linguistic manority groups More teachers shall have to be appointed for teaching of the norther-tongue and for instruction through its medium. In respect of schools in States, the expenditure would be met out of the Consolidated Funds of the respective States. However, in respect of schools in Union Territory and schools in other places run by Central Government, the Central Government would have to incur expenditure. The Central Government may also have to give financial assistance to States for carring out the provisions of the Act. The Bill, therefore, if enacted, will levolve appenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten crores.

#### Bul No. 127 of 1991

A Bill to amend the Medical Termination of Pregnancy Act, 1971.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows: --

1. This Act may be called the Medical Termination (Amendment) Act, 1991.

Short title.

2. In section 3 of the Medical Terraination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act), in sub-section (2), before Explanation 1, the following provisos shall be inserted, namely:—

Amendment of section 3.

"Provided that no pregnancy of a woman shall be terminated by a registered medical practitioner or practitioners, as the case may be, if he or they have reason to believe that such termination is sought with the intention to commit female foeticide after having determined the sex of the child to be born by a sex-determination test:

Provided further that if any registered medical practitioner terminates the pregnancy of a woman, except in cases provided for in this

... . ... ... ... ... ... ... ... ... ... ... ...

sub-section, knowing fully well that such termination is being sought with the intention of committing female foeticide, or any other person who helps in the termination of such pregnancy, such registered medical practitioner or the other person shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to fifteen years and with fine amounting to rupees ten thousand."

Amendment of section 4. 3. In section 4 of the principal Act, after clause (b), the following provisos shall be inserted, namely:—

"Provided that no place shall be approved for the purpose of this Act by Government if sex-determination tests are held in such place and it is privately owned:

Provided further that if any sex-determination test is conducted at an approved place, which is privately owned, the owner of the place and the persons who conducted or helped in the conduct of the test shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to fifteen years and with fine amounting to rupees ten thousand."

# STATEMENT OF OBJECTS AND REASONS

Since the passing of the Medical Termination of Pregnancy Act, 1971, it is found that now-a-days the provisions are misused by those who desire to have only male children. There are private sex-determination clinics which carry out tests and once the foetus is discovered to be a female, the pregnant mother often goes to a Government or municipal hospital to have the abortion. In some cases even the sex-determination clinics also carry out the abortions on request. Sex-determination tests and selective abortion, or female foeticide amount to misuse of science and technology, social oppression of women and abuse of human rights. The persons who conduct such tests and entice the people to go for selective abortion need to be awarded severe punishment.

Hence this Bill.

NEW DELHI; August 7, 1991.

UMA BHARTI

#### BILL No. 150 or 1991

A Bill to provide for appointment of only one member of a family in public services and posts in connection with the affairs of the Union.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title. 1. This Act may be called the One-Family One-Post (in Government Service) Act, 1991.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "family" means and includes husband, wife and minor children;
- (b) "Government service" means public services and posts in connection with the affairs of the Union and includes services and posts in undertakings of the Government of India or in any organisation or undertakings where fifty-one per cent. of its capital is held in any form by the Government of India.

3. Notwithstanding anything contained in any other law for the time being in force, only one person from a family shall hold a post in Government service.

Restriction on holding post under the Government.

4. Any person who remains in Government service in contravention of the provisions of section 3, shall be removed from the post and all his dues, otherwise payable to him, shall be forfeited and he shall be punished with fine which may extend to three thousand rupees.

Punishment.

5. Where no member of a family is holding a post in Government Service, the Central Government shall provide employment to one member of such family.

Provision of employment to one member of a tamily.

6. The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

#### STATEMENT OF OBJECTS AND REASONS

In spite the efforts of the Government since independence to tackle the problem of unemployment, there is a large number of unemployed people in our country. In fact, the problem of unemployment is threatening our democracy. The youth of the country today is getting impatient for lack of opportunities of gainful employment. The frustration is growing more rapidly amongst the educated unemployed.

Not only that the employment opportunities are inadequate, but also the distribution of available opportunities is inequitable. While lakes of job seekers are registered with the employment exchanges all over the country, many members of several families are employed in Government service. This is against the canons of social justice. While some of the families are reaping large benefits from the Government, the others are struggling to find a livelihood. In order to provide equal opportunities for employment in Government service, only one person in a family should be permitted to hold employment in Government Sector. The Government should also provide employment to one member of the family where no person is employed.

The Bill seeks to achieve this objective.

NEW DELHI;

C. P. MUDALAGIRIYAPPA

August 7, 1991.

## FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that where no member of a family is holding a post in Government service the Central Government shall provide employment to one member of such family. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in respect of provision of employment. Although it is not known that how many persons would have to be given employment, it is estimated that an annual recurring expenditure of about rupees ten crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees five crores is also likely to be involved.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

# BILL No. 149 OF 1991

A Bill further to amend the Constitution of India,

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

tle and commen-cement.

Short ti-

(2) It shall come into force from the 30th day of September, 1991.

2. In article 371 of the Constitution, for clause (2), the following clause shall be substituted, namely:—

Amendment of article 371.

- "(2) Notwithstanding anything in this Constitution, the President—
  - (i) shall by order made before the thirtieth day of September, 1991, with respect to the State of Maharashtra; or

- (ii) may by order made with respect to the State of Gujarat, provide for any special responsibility of the Governor for—
  - (a) the establishment of separate development boards-
    - (i) for Vidarbha, Marathwada, and the rest of Maharashtra by the nineteenth day of October, 1991, consisting of fifteen members:

Provided that of the fifteen members of a board five shall be from amongst the members of house of the People from the region, five shall be from amongst the members of the Legislative Assembly from the region and five experts from various fields like agriculture, education, industry, social welfare; or

- (ii) for Saurashtra, Kutch and the rest of Gujarat, with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;
- (b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and
- (c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.".

## STATEMENT OF OBJECTS AND REASONS

According to the article 371 of the Constitution there is a provision to establish separate development boards for the backward regions of the State of Maharashtra, namely, Vidarbha, Marathwada, and rest of Maharashtra, but till now these boards have not been established. The Maharashtra Legislative Assembly has passed unanimous resolution, requesting the Government of India to establish these boards to overcome imbalanced development of the state. These boards shall have power to monitor allotment of funds equally for the regions on the basis of population, area, etc.

This is a long pending demand of the people of the state for which agitations are going on. Therefore, there is need to make the establishment of the boards a time bound programme.

Hence this Bill.

NEW DELHI;

UTTAMRAO PATIL

August 7, 1991.

## Bill No. 130 of 1991

A Bill to amend the Medical Termination of Pregnancy Act, 1971.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows;—

Short title.

1. This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 1991.

Amendment of section 3. 2. In section 3 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act), in sub-section (2), before Explanation 1, the following proviso shall be inserted namely:—

"Provided that no pregnancy of a woman shall be terminated by a registered medical practitioner or practitioners, as the case may be, if he or they have reason to believe that such terminaion is sought with intention to commit female foeticide after having determined the sex of the child to be born by a sex-determination test.".

The state of the s

3. In section 4 of the principal Act, after clause (b), the following proviso shall be inserted, namely:—

Amendment of section 4.

"Provided that no place shall be approved for the purpose of this Act by Government if sex-determination tests are held in such place and it is privately owned.".

# STATEMENT OF OBJECTS AND REASONS

Since the passing of the Medical Termination of Pregnancy Act, 1971, it is found that now-a-days the provisions are misused by those who desire to have only male children. There are private sex-determination clinics which carry out tests and once the foetus is discovered to be a female, the pregnant mother often goes to a Government or municipal hospital to have the abortion. In some cases even the sex-determination clinics also carry out abortions on request. Sex-determination tests and selective abortion, or female foeticide amount to misuse of science and technology, social oppression of women and abuse of human rights.

Hence this Bill.

SUMITRA MAHAJAN

New Delhi; August 7, 1991.

## Bull No. 120 of 1991

## A Bill further to amend the Indian Penal Code.

By it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1991.

Short title.

45 of 1860.

2. In section 376 of the Indian Penal Code, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 376.

"(3) Notwithstanding anything contained in sub-section (2), whoever commits rape on a woman when she is under ten years of age shall be punished with death.".

## STATEMENT OF OBJECTS AND REASONS

In the recent past there has been a increase in cases of rape of minor girls. The act of rape itself is the worst kind of a criminal offence and it gains in gravity once it is committed on minor girls. In some of the cases the age of the minor girls was as much less as nine months. Persons who commit such type of offence; deserve no len'ency at the hands of law but on the other hand deserve maximum of the capital punishment i.e., they should be awarded death penalty for such beastly acts.

The Bill seeks to achieve this purpose.

New Delhi;

August 7, 1991.

KASHIRAM RANA

## BILL No. 129 of 1991

A Bill to make military training compulsory for all able-bodied persons.

Br it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Compulsory Military Training Act, 1891.
  - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title, extent and commencement. Compulsory military training for all able bodied persons. 2. Military training for a period of not less than one year, shall be compulsory for all able-bodied persons who have attained the age of eighteen years:

Provided that persons enrolled in the Territorial Army, the Border Security Force, the Central Reserve Police Force, the Central Industrial Security Force, the Indo-Tibetan Border Police or any other para-military force, shall be exempted from the provisions of this section.

Power to formulate scheme and establishment of institution.

3. The Central Government shall formulate a scheme and establish necessary institutions to give effect to the provisions of section 2.

# STATEMENT OF OBJECTS AND REASONS

Military training instils a sense of discipline and develops character, mental robustness and physical fitness he youth and makes them better citizens. It also enables the Stace to draft the youth as a second line of defence in times of threats to the security of the country and for relief operations during natural calamities like floods, cyclones, earthquakes, famines, etc.

No doubt there is provision for N.C.C. training in some schools and colleges but the scheme in operation is neither comprehensive nor compulsory for the students.

The country needs a comprehensive scheme under which all ablebodied persons should undergo military training for a specified period, before they take up their respective vocations

Hence this Bill.

NEW DELHI;

August 8, 1991.

C. P. MUDALAGIRIYAPPA

### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for introducing compulsory military training to all able-bodied persons. Clause 3 provides for establishment of several institutions for imparting military training and these institutions have to be provided with necessary equipments and other infrastructure. The Bill, therefore, if unseted, would involve expenditure from the Consolidated Fund of India.

The recurring expenditure for the scheme may be to the tune of rupees ten crores per annum.

The scheme is also likely to involve a non-recurring expenditure of rupees ten crores per annum.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides for formulating a scheme for imparting compulsory military training to all able-bodied persons. The scheme has to be administered by the Government of India. The delegation of legislative power is of a normal procedural character.

#### Bria. No. 128 of 1991

A Bill to provide for the welfare by the Government of all persons who are born handicapped, disabled or mentally retarted.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Welfare of Handicapped, Disabled and Mentally Retarded Persons Act, 1991.

Short title and extent

- (2) It extends to the whole of India.
- 2. All persons who are born as disabled, handicapped, mentally retarded or declared mentally retarded shall be taken care of by the Central Government.

Disabled persons, etc. to be taken care of by the Central Government.

Expenses of bringing up, etc. to be borne by the Central Government.

3. All the expenses for their bringing up, education and training for employment and the sheltered babitation of mentally retarded persons shall b borne by the Central Government.

Welfare centres to take possession of disabled persons.

4. All welfare centres in the country shall be authorised to take possession of such persons who are noticed as disabled, handicapped or mentally retarded and are found to be unattended or neglected by their parents or are handed over to a welfare centre by the parents themselves.

Employment to disabled, etc. 5. The Central Government shall provide suitable employment to all such percens who are disabled, handicapped or mentalty retarded on their attaining the age of eighteen years.

Power to frame rules.

- 6. (1) The Central Government may frame rules for carrying out the purposes of this Act and in particular for taking possession of persons who are disabled, handicapped or mentally retarded.
- (2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

#### STATEMENT OF OBJECTS AND REASONS

It has been found that the number of children born in India as handicapped, disabled or mentally retarded has been increasing from time to time. It has also been found that these children are not properly looked after by the families and are thrown on the roadsides. In fact, due to the drawback they suffer from they deserve the care of the Government even after they attain majority. No sufficient provisions have been made so far for their welfare and they are not treated well in the society. It is, therefore, necessary to enact a legislation for the welfare of such children. This may give them a feeling of equality and prosperity in comparison to others and Government should make provision for their welfare and betterment so that they can enjoy the freedom of the country.

Hence this Bill.

New Drieu; August 8, 1991.

C. P. MUDALAGIRIYAPPA

# FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that all expenses for bringing up such persons who are born as disabled, handicapped or mentally retarded and for their education, etc. will be borne by the Central Government Clause 5 requires the Central Government to make provision of suitable employment for such children on their attaining the age of 18 years. The Bill, therefore, if enacted, is likely to involve recurring expenditure of about Rs. 50 crores from the Consolidated Fund of India.

A non-recurring expenditure of Rs. 10 crores is also likely to be incurred in this connection.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.  $A_{\rm S}$  the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

#### Bill No. 132 of 1991

A Bill to provide for compulsory registration of all marriages in India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Registration of Marriages Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "appropriate Government" means in the case of a State, the State Government and in the case of a Union territory, the Central Government.

3. All marriages taking place in India after the commencement of this Act shall be compulsorily registered.

Short title, extent and commencement.

> Definition.

Compulsory registration of marriages. Registrar of Marriages.

- 4. (1) A Registrar of Marriages shall be appointed for each district by the appropriate Government who shall register all marriages taking place within that district.
- (2) The particulars of the parties to the marriage shall be entered in the marriage register, which shall be maintained by the Registrar of Marriages, in such form and manner as may be prescribed by the appropriate Government, but the marriage register shall include the following particulars, namely:—
  - (a) the names and addresses of the bride and the bridegroom and of their parents or guardians;
  - (b) the age of the bride and the bridegroom, together with the proof of age which has been produced in support of the age; and
  - (c) the dowry or any other consideration/considerations, in cash or kind, which have changed hands as a result of the marriage, either before or after the marriage.

Parents to turnish the particulars of bride and bridegroom and penalties in case of default.

- 5. (1) It shall be the duty of the parents or guardians of the bride and the bridegroom to furnish the aforesaid and other particulars, if any, prescribed by the appropriate Governments, to the Registrar of Marriages of the district in which the marriage is solemnised within a week of the solemnisation of the marriage.
- (2) If the parents or guardians fail to furnish the requisite particulars within the prescribed time, a fine of rupees fifty each shall be imposed by the Registrar of Marriages on the bride's and the bridegroom's parents or guardians, but the payment of the fine shall not exempt the parents or guardians from furnishing the particulars about the marriage.
- (3) If the parents or guardians still do not furnish the requisite particulars, they shall be subjected to an additional fine of rupees fifty for the delay of every week.
- (4) For the enforcement of its orders, the Registrar of Marriages shall have the powers of the District Court.

Power to frame rules. 6. The respective State Governments shall frame rules to earry out the purposes of this Act.

#### STATEMENT OF OBJECTS AND REASONS

Compulsory registration of marriages of persons belonging to all communities in India is a very important step towards making the Child Marriage Restraint Act, 1929, effective. Child marriages will be very much discouraged if all marriages are compulsorily registered. So far as the Hindus are concerned, there is a provision in section 8 of the Hindu Marriage Act, 1965, which gives to the State Government the option to provide for compulsory registration of marriages. But none of the State Governments has so far provided for compulsory registration of marriages. There is no provision for compulsory registration of marriages for Muslims also. The result is that child marriages are generally not detected and the offenders are not prosecuted. Thus, this legislation will be a very important piece of legislation for realisation of aims and objectives of the Child Marriage Restraint Act, 1929 and it will also help the cause of Dowry Prohibition Act, 1961.

Hence this Bill.

NEW DELHI;

C. P. MUDALAGIRIYAPPA

August 8, 1991.

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for appointment of Registrar of Marriages for each district by the appropriate Government. The Registrar of Marriages shall also be appointed for Union territories. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is likely to involve a recurring expenditure of about rupees five crores per annum.

A non-recurring expenditure of rupees fifty lakhs is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill provides for the appropriate Government to frame rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL No. 147 of 1991

A Bill further to amend the Constitution of India.

Br it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

2. After article 48A of the Constitution, the following article and Explanation thereto shall be inserted, namely:—

"48B. The State shall endeavour to-

- (a) declare agriculture as an industry;
- (b) make the agricultural produce export oriented;
- (c) provide such benefits to agricultural labourers as are available to industrial workers;

Short title.

Insertion of new article 48B.

Special provisions relating to agriculating

- (d) raise the standard of living of farmers and agricultural labourers;
  - (e) introduce agriculture as a subject at school level;
  - (f) promote the export of agro-based products;
- (g) provide medical facilities to farmers and agricultural labourers under the Employees' State Insurance Scheme;
- (h) bring farmers and agricultural labourers under a group insurance scheme, the premium for which shall be paid out of the revenue being collected from any agricultural operation; and
- (i) provide electricity and better irrigation facilities at cheaper rates.

Explanation—In this article, "agriculture" means and includes horticulture, sericulture, poultry, orchard, rearing of milch animals, manufacturing of milk products, milk production and such other works in which agro-based products are used as raw-materials.".

## STATEMENT OF OBJECTS AND REASONS

India is predominantly an agricultural country. A large number of people of the country depend on agriculture for their livelihood. Industrial production is largely based on agricultural products. The Government should extend financial and other such assistance to agricultural sector as is being provided to the industrial sector. The prices of agricultural products should be fixed in the same way as the prices of industrial products are fixed. Unless agriculture is treated as an industry, in the matter of giving incentives, the economy of the country cannot be set right. The economy of the country can be strengthened by exporting agricultural products with less investment than what is required for increasing export of industrial products. Since agriculture has become mechanised, agricultural workers and farmers should get the same legal protection as are available to the industrial workers.

Hence this Bill.

New Dethi: August 8, 1991. BHAGWAN SHANKAR RAWAT

## BILL No. 153 of 1991

A Bill to amend the Narcotic Drugs and Psychotropic Substances Act, 1985.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title, extent and commencement.

- 1. (1) This Act may be called the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1991.
  - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

- 2. In the Narcotic Drugs and Psychotropic Substances Act, 1985 61 of 1985 (hereinafter referred to as the principal Act), in section 2, for clause (xviii), the following clause shall be substituted, namely:—
  - "(xviii) 'poppy straw' means all parts (except the seeds, the leaves and the stem) of the opium poppy after juice has been extracted therefrom;".

## 3. In section 15 of the principal Act,—

- (i) for the words "which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees", the words "which shall not be less than six months but which may extend to two years and shall also be liable to line which shall not be less than ten thousand rupees but which may extend to twenty-five thousand rupees" shall be substituted;
- (ii) in the proviso, for the words "two lakh rupees", the words "twenty-five thousand rupees" shall be substituted; and
- (iii) after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that no person who has been issued a licence for cultivation of the opium poppy shall be punished, if, after harvesting, he possesses either the leaves or the stem of the opium poppy.".

## 4. In section 18 of the principal Act,-

- (i) for the words "which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees", the words "which shall not be less than six months but which may extend to two years and shall also be liable to fine which shall not be less than ten thousand rupees but which may extend to twenty-five thousand rupees" shall be substituted; and
- (ii) in the proviso, for the words "two lakh rupees", the words "twenty-five thousand rupees" shall be substituted.

## 5. In section 19 of the principal Act,-

- (i) for the words "which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees", the words "which shall not be less than six months but which may extend to two years and shall also be liable to fine which shall not be less than ten thousand rupees but which may extend to twenty-five thousand rupees" shall be substituted; and
- (ii) in the proviso, for the words "two lakh rupees", the words "twenty-five thousand rupees" shall be substituted.

Amendment of section

Amendment of section 18.

Amendment of section 19.

#### STATEMENT OF OBJECTS AND REASONS

The cultivators of opium poppy plant, after extraction of the juice. keep poppy straw which includes leaves and stems, until it is sold. The existing definition of "poppy straw" in the Narcotic Drugs and Psychotropic Substances Act, 1985, includes such leaves and stems. This definition needs to be amended so that the cultivators are not harassed by the enforcement authorities.

Punishment prescribed for contravention of the provisions of the Act in relation to poppy straw, opium, opium poppy and for embezzlement of opium by cultivators is excessive. It is, therefore, necessary to reduce the extent of punishment prescribed so as to make it realistic and also to facilitate implementation of the provisions of the Act by the enforcement authorities and the courts.

The Bill seeks to achieve the above objectives.

New Delhi;

LAXMINARAYAN PANDEY

August 8, 1991.

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# Вил. No. 117 от 1991

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1991.

Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part JX.—Maharashtra, in item 18, for the words "Gond Gowari", the word "Gowari" shall be substituted.

Amendment of the Schedule. \_ - \_ - \_ - \_ \_ \_ \_\_\_

# STATEMENT OF OBJECTS AND REASONS

Some entries in the list of Scheduled Castes and Scheduled Tribes notified in various Presidential Orders have been the subject of criticism on the ground that the names of certain Scheduled Caste and Scheduled Tribe communities or sub-sections thereof included in the list sound delogatory or unjustifiable because of their unrespectful or undignified connotation and as such these entries are being amended from time to time.

Gond and Gowari communities are two separate communities and should have been shown separately in the list of Tribes of Maharashtra State instead of "Gond Gowari" as is being shown at present.

The Bill seeks to achieve the above objective.

NEW DELHI;

UTTAMRAO PATIL

August 9, 1991.

#### BILL No. 131 of 1991

A Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Forest (Conservation) Amendment Short Act, 1991.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), after clause (ii), the following provisos shall be inserted, namely:—

Amendment of section 2.

"Provided that the Central Government shall not withhold its approval for deforestation if the forest land acquired is for public development works such as construction of roads, drinking water schemes, laying of telegraph or telephone lines, electricity lines or any other developmental schemes for the benefit of the general public:

Provided further that the approval of the Central Government shall not be required if the number of trees to be cut, in the forest land to be acquired for the purposes as provided in the first proviso, is one thousand or less.".

Insertion of new section 3C.

3. After section 3B of the principal Act, the following section shall be inserted, namely:—

Approval
of
schemes
by
Central
Government
within a
specified
period.

"3C. The schemes approved by the State Governments sent to the Central Government for their approval shall be disposed of by the Central Government within fifteen days of their receipt.".

# STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980, provides that any forest land or any portion thereof may be used for any non-forest purpose provided it has the approval of the Central Government. But the Act also provides that an Advisory Committee may be set up to advise the Central Government with regard to cutting of trees in the forest. This provision may delay some public utility services such as construction of roads, dranking water schemes, telephone lines, electricity lines, etc., which are to be provided through the forests and also require cutting of some trees in the process. It is, therefore, necessary to make it compulsory for the Central Government not to withhold its approval for these development works and a provision in this regard is required to be made in the Act.

Hence this Bill.

NEW DELHI; August 9, 1991. RAMFSHWAR PATIDAR

#### Bull No. 126 of 1991

A Bill to provide for the utilisation of human resources in the best interests of the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title, extent and commencement.

- 1. (1) This Act may be called the Human Resources (Utilisation) Act, 1991.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.

National merit certificate.

- 2. (1) Any person, who does any meritorious work, as mentioned in the Schedule, shall be awarded national merit certificate by the Central Government.
- (2) The Central Government shall constitute a national committee consisting of the Prime Minister, the Chief Ministers of the States and Chief Administrators of Union territories for awarding the national merit certificates under sub-section (1).

- (3) All the State Governments and the Union territory administrations shall set up committees to make recommendations to the national committee for the award of the national merit certificates.
- 3. (1) Any person, who has been awarded national merit certificate under section 2, shall be given preference in the matter of employment under the Central Government or Union territory administration and in any corporation or undertaking under the control of the Central Government or Union territory administration.

Preference in the matter of employement.

- (2) Any person, who is awarded a certificate after his joining the service under the Central Government or Union territory administration, shall be given preference in promotions to the next higher grade.
- 4. Any student who is awarded the national merit tertificate, shall be given free education, including technical and medical education, and preferential treatment in the matter of allotment of land.

Free education to the students.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act

Power no make rules,

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### THE SCHEDULE

#### (See section 2)

- 1 Making ten persons literate from amongst illiterate persons near his place of residence.
- 2. Helping at least ten children, especially those belonging to backward classes or economically weaker sections of society, admitted in schools.
  - 3. Plantation of at least twenty trees.
- 4. Helping in registration of at least ten cases of hoarding or corruption, black-marketing, evasion of income-tax, Sales-tax, customs-duty, excise duty, etc.
  - 5. Developing of at least one acre barren land into fertile land.
- 6 Performance of at least five works connected with flood/drought relief measures or soil erosion and afforestation.
- 7. Performance of at least five works connected with maintenance of roads, wells, ponds, canals, etc. or active participation in the construction of schools, hospitals, etc.
- 8. Helping in initiation of action against inefficient and corrupt Government officials in ten cases.
- 9. Performance of works of patriotism and for promotion of unity and integrity of the nation.
- 10. Performance of works connected with the maintenance of commonal harmony or helping in initiation of action against terrorists and against those who preach communal hatred.
  - 11 Showing right path to the anti-social and anti-political elements.
- 12. Helps and saves the lives of people from death during natural calamities
- 13. Helps in capturing robbers, decoits, extremists, naxelites, foreign spies anti-national elements, etc.

## STATEMENT OF OBJECTS AND REASONS

Today, there are serious challenges to the unity and integrity of the country, communal harmony and brotherhood. Good conduct, patriotism, love for the country and discipline are rarely seen. Vested interests are dominating everywhere. Young generation has become frustrated, disappointed, indisciplined, confused and misguided. Economic imbalances and exploitation of people, etc. have assumed alarming proportions.

The need of the hour is to channelise the youth force in a proper direction for the nation building tasks. The Bill seeks to provide for achieving this task by providing incentives to youth force and inculcating sense of patriotism and national spirit which are essential for the country.

Hence this Bill.

S. B. SIDNAL.

NEW DELHI; August 12, 1991.

#### FINANCIAL MEMORANDUM

Clause 2(1) of the Bill provides for awarding the national merit certificates by the Central Government. Clause 2(2) provides for the constitution of a national committee consisting of the Prime Minister, the Chief Ministers of the States and Chief Administrators of Union territories for awarding the national merit certificates. Clause 2(3) provides for the State Governments and the Union territory administrations to set up committees to make recommendations to the national committee for the award of the national merit certificate. Clause 4 provides for provision of free education, including technical and medical education, to such students who are awarded national merit certificate. As far as the committees set up by the State Governments are concerned the expenditure will be met out of the Consolidated Fund of the respective States. However, for the committees set up by the Union territory administrations and for other matters, the Central Government will have to incur expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crores per annum is likely to be involved from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees five crores.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the matter on which rules are to be made are matters of detail only, the delegation of legislative power is of a normal character.

### BILL No. 139 of 1991

A Bill to provide for a comprehensive policy for the development of the Youth in the country.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Youth Welfare Act, 1991.
- (2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,-

- (a) 'appropriate Government' means to the case of a State, the State Government and in the case of a Union territory, the Union
- Government;

  (b) 'youth' means all persons between fifteen and twenty-five years of age;
- (c) 'youth organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, easte or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Short title and extent.

Defini-

tions.

Compulsory and free educational facilities.

- 3. The appropriate Government shall provide to the youth-
  - (a) compulsory and free education including technical education;
  - (b) materials like books, note-books, stationery, etc. free of cost;
  - (c) free hostel facilities; and
  - (d) scholarships to deserving students.

Participation of youths in management or administration of schools, tious

- 4. (1) The youth shall have representation in the management or advisory boards at all levels of administration in schools as well as in institutions of higher and specialised education.
- (2) Students unions in all educational institutions shall be formed through elections by secret ballot.

#### Sports

facilities to the youth.

- 5. The appropriate Government shall provide-
- (a) facilities to the youth for participation in sports activities both inside and outside the country;
- (b) finances to sports organisations to be used for supply of sports materials to the youth;
- (c) representation to youth organisations in sports associations and hodies: and
- (d) for the welfare of a sportsman, who represents the country in any event, for his life time.

Provisions of nutritious meals in schools, etc.

6. The appropriate Government shall provide nutritious meals free of cost to all the students in schools, colleges, universities and hostels.

Medical care to the youth.

7. The appropriate Government shall provide regular medical and health care to the youth free of cost.

Training of the youth in trade, vocation, etc.

8. The appropriate Government shall evolve a scheme under which young girls and boys shall be provided training in modern apprenticeship trades, vocations, etc. in factories and vocational institutions.

9. The appropriate Government shall appoint expert committees in every district consisting of eminent educationists, doctors, psychologists and agriculturists to recommend the type of education or training in any avocation that is to be imparted to a boy or a girl of the district after he or she passed the tenth class examination.

Appointment of expert committees.

10. The appropriate Government shall provide proper and gainful employment to the youth after their training or unemployment allowance, as may be prescribed, in lieu thereof, till they are provided with employment.

Provision of employment.

11. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

Since independence, no clear-cut youth policy has been laid down. It is high time that there is a youth policy for their proper development and utilisation in the country.

In this context, it is utmost important to start a powerful, united, well-orchested reform movement under a comprehensive youth policy and to implement it in order to wean away the youth from backward feudal ideology, connected with the colonial era, and to fight against fanaticism, fundamentalism and separatism.

The education should be the right of the youth and not a privilege and employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between rural and urban youth should be climinated gradually. The youth today is also facing serious health problem, absolute inadequacy in sports and cultural facilities. Youth belonging to Scheduled Castes, Scheduled Tribes and other backward classes are still recling under poverty. There is no proper planning for the youth, their comprehensive development and proper utilisation. Youth organisations are also not consulted in dealing with the problems of youth. A comprehensive youth policy is, therefore, absolutely necessary.

Hence this Bill.

NEW DELHI;

S. B. SIDNAL.

August 12, 1991,

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education to all youths. It also provides for scholarships to deserving students. Clause 5 provides that appropriate Government shall provide facilities to youths for their participation in sports activities and finance sports federations. It also provides for the welfare of sports persons. Clause 6 provides that the appropriate Government shall provide nutritious diet in schools, colleges, universities and hostels. Clause 7 provides for regular supervision of health and medical care of the youth by the appropriate Government. Clause 8 provides that the appropriate Government shall evolve a scheme under which youth will be given training in factories or vocational institutions. Clause 9 provides for appointment of expert committees to recommend the type of education that is to be imparted to youth. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all youths or unemployment allowance, as may be prescribed, till they are provided with employment.

The Bill, if enacted therefore, would involve expenditure from the Consolidated Fund of India in respect of Union territories.

An annual recurring expenditure of about rupees one hundred crore is likely to be incurred.

A non-recurring expenditure of about rupees two crore is also likely to be incurred.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

## BILL No. 138 of 1991

A Bill to provide for the establishment of a National Child Welfare Board for welfare of children and for matters connected therewith

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the National Child Welfare Board Act, 1991.

Short title and extent.

- (2) It extends to the whole of India.
- 2 In this Act, unless the context otherwise requires, "child" means a person who is under the age of eighteen years.

Definition. Establishment of National Child Welfare Board

- 3. (1) There shall be established by the Central Government a Board to be known as the "National Child Welfare Board" (hereinafter referred to as the "National Board"), which shall consist of a Chairman and four other members having special knowledge or practical experience in the fields of education, medicine, sports, culture and social services.
- (2) It shall be the duty of the Board to enunciate the national policy for the development of the child.

Establish.
ment of
State or
Union
territory
Child
Welfare
Boards.

4. There shall be established by every State Government or Union territory Administration a Board to be known as the "State or Union territory Child Welfare Board", as the case may be (hereinafter referred to as the "State Board" or "Union territory Board"), which shall consist of a Chairman and such number of other members, as the State Government or the Union territory Administration may determine, who shall have special knowledge or practical experience in the fields of education, medicine, sports, culture and social service.

Duties of State or Union Territory Boards.

- 5. It shall be the duty of every State and Union territory Board to-
  - (i) advise and guide the National Board as regards-
  - (a) the ways to improve the health and proper maintenance of the children:
  - (b) the type of education which is to be imparted to each child, including technical education and vocational training:
- (ii) provide education, uniform, transportation and meals, etc. free to every child upto the tenth standard; and
- (iii) select children for higher and technical education and to meet all their expenses.

Duty to carry out the policy of National Board. 6. It shall be the duty of the Central Government to carry out the policy of the National Board into effect through release of funds and materials.

Power to make rules.

- 7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—
  - (a) the salary and other allowances payable to the members of the National Board, State Boards and Union territory Boards;
  - (b) the appointment of other staff and provision of office and furniture, etc. for the Boards;
    - (c) any other matter which has to be, or may be, prescribed.

#### STATEMENT OF OBJECTS AND REASONS

India is a developing country and a large number of people are uneducated, unemployed and poor. Moreover, the children, who are the future of the country, are under-nourished and education is not being imparted to them as per the requirement of the present times. The rich people can spend money for better education of their children, whereas the large majority of the poor people cannot afford to utilise the natural potentialities of their children. Due to the lack of proper nourished diet and health care, the children become victims of a number of incurable diseases. Therefore, there is an urgent need to formulate a national policy for the development of children. The Child Welfare Boards will examine the capability and capacity of a child and make recommendations for the better development of the child. This will also result in lesser drop-outs from schools.

Hence this Bill.

NEW DELHI:

S. B. SIDNAL

August 12, 1991.

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Child Welfare Board. Clause 4 provides for the establishment of State or Union territory Child Welfare Boards. Clause 5(ii) provides for provision of education, uniform, etc. free of cost to all children upto tenth standard. Clause 5(iii) provides for selection of children for higher and technical education and for meeting of all of their expenditure by the State or Union territory Boards. Clause 6 provides that it shall be the duty of the Central Government to carry out the policy of National Board by means of funds and materials. Clause 7 (2) provides for payment of salary and other allowances to members of National Board, Stateand Union territory Boards. It also provides for appointment of other staff and provision of office furniture, etc. for the Boards. therefore, if enacted, is likely to involve a recurring expenditure of about rupees fifty lakhs per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees twenty-five lakhs.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Sub-clause (2) of that clause enumerates the various matters in respect of which rules may be made. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative power is, thus, of a normal character.

# BILL No. 122 of 1991

A Bill to put restriction on number of holidays in public offices.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Restriction on Holidays in Public Offices Act, 1991.
  - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
  - 2. In this Act, unless the context otherwise requires,—
    - (a) "public holiday" means a holiday observed by the State;
  - (b) "public office" means and includes all offices, establishments working for, or under the authority of, the State;

Short title, extent and com-

mencement.

Definitions. (c) "the State" includes the Government of India, the Union territory administrations and all other authorities within the territory of India under the control of the Government of India.

Public holidays not to be on the basis of religion, etc.

3. The State shall not declare any day as public holiday solely on the consideration of religion, race, community, caste, creed, region, tradition or festival.

# National holidays.

- 4. There shall be observed national holidays on Independence Day, Republic Day and the birthday of Mahatma Gandhi.
  - 5. The State shall not declare any holiday on the death of any person.

Provision of one holiday in a week.

6. The State shall observe only one day in a week as a holiday

# STATEMENT OF OBJECTS AND REASONS

In our country a large number of holidays given are based on religion, community, region, etc. and also holidays are declared on the death of high dignitaries. It has been calculated that the teachers all over India work only for 3-4 months in a year and the rest of the months are holidays. Similarly, in the Government offices and Government of India Undertakings, the man power loss is the highest in the world due to large number of holidays. The large number of holidays in a country like India is a national loss. The country cannot progress until and unless long hours of work is put in. To remove the poverty and for increasing the industrial production, it is necessary to put a restriction on the number of public holidays.

Hence this Bill.

NEW DELHI;

S. B. SIDNAL

August 12, 1991.

# BILL No. 145 of 1991

A Bill to provide for payment of monthly pension and provision of other facilities to the members of the families of persons killed in terrorist violence in the country.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title and comencement,

- 1. (1) This Act may be called the Rehabilitation of Dependents of Victims of Terrorism Act, 1991.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Definition. 2. For the purpose of this Act, the term 'terrorist act' shall have the same meaning as is assigned to it in sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

28 of 1987.

Payment
of Pension
to families of
victims
of terrorisms.

3. The Central Government shall pay pension at the rate of rupees two thousand per mensem to the family of person killed in any act of terrorism.

4. The Central Government shall set up a fund, with an initial contribution by the Central Government of rupces twenty crores, for payment of pension as provided under section 3, to the dependents of victims of any act of terrorism.

setting up of a fund for payment of pension

5. The Central Government shall provide employment to atleast one eligible member of the family of the victim of a terrorist act within three months of the happening of the act:

Provision of other facilities.

Provided that if there is no one cligible for immediate employment, the Central Government shall provide, free of cost, such education, technical or otherwise, to a member of the family of the victims before providing him with gainful employment.

6. The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Terrorist violence has claimed lives of a large number of innocent citizens of the country. The tragedy of the situation is heightened by the fact that the dependents of these unfortunate victims of violence are often left with no means of support. The trauma cause by the death of the bread-winner and the sudden deprivation of means of livelihood ruin their lives. Many families have been ruined and many more are likely to be ruined as a result of terrorist violence. The State should provide the dependents with a stable income and certain essential facilities.

The Bill seeks to provide for payment of pension to the family of a person killed as a result of terrorist act and also to ensure the provision of job to atleast one member in the family of the deceased.

NEW DELHI;

K. V. THOMAS

August 12, 1991.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a monthly pension of rupees two thousand to the family of the person killed as a result of terrorist act. Clause 4 provides for the setting up of a fund with an initial deposit of rupees twenty crores for payment of pension to dependents of victims of any act of terrorism. Clause 5 provides for the provision of a job to one eligible member of the family of a person, killed as a result of terrorist act, by the Central Government, and if no member of the family is eligible for the job offered, the Central Government shall provide free of cost, such education, technical or otherwise, to one member of that family so that the member may become eligible to join the job so offered. The Bill, therefore, if enacted, is likely to involve an annual recurring expenditure of about rupees twenty-two crores from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

# BILL No. 140 of 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Constitution (Amendment) Act, 1991.

Amend-

2. In article 311 of the Constitution,-

ment of article 311.

- (i) in the second proviso to clause (2), sub-clause (b) shall be omitted; and
  - (ii) clause (3) shall be omitted.

#### STATEMENT OF OBJECTS AND REASONS

Article 311 of the Constitution provides certain rights to the Government employees and contains effective guarantee against victimisation. This provision was incorporated in the Constitution in order to provide a reasonable degree of stability in the administration as it protects a Government employee against victimisation. But Tulsi Ram Patil's case has radically changed that situation in which the Supreme Court invoked sub-clause (b) of the second proviso to clause (2) and other provisions of article 311 and decided that the inquiry can be dispensed with if the authority, which is empowered to dismiss an employee or award other punishment is of the opinion that it is not reasonably practicable to do so. The Supreme Court did not also think that this sub-clause violates the principles of natural justice. The above judgement has caused considerable consternation in the service as it has exposed the employees to victimisation. An authority empowered to dismiss an employee can take recourse to this provision if it feels so without having to go through the process of an inquiry and so on. This is likely to lead to great uncertainty in the services which will bring down the morale of the employees. Therefore, a review of this position is called for,

This Bill, accordingly seeks to amend article 311 of the Constitution.

NEW DELHI:

K. V. THOMAS

August 8, 1991.

#### BILL No. 137 of 1991

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1991.

Amendment of section 2. 2. In the Code of Criminal Procedure, 1974 (hereinafter referred to 2 of 1974, as the principal Act), in section 2, after clause (w), the following clauses shall be inserted, namely:—

"(wa) 'Tribunal' mean; a Criminal offences Claims Tribunal constituted under Chapter IIIA;

45 of 1860.

(wb) 'victim' means a person who, individually or collectively, has suffered physical or mental injury or loss or damage to property or substantial impairment to his fundamental rights through acts of commission or omission by any person in violation of any law in force or a victim of any offence under the Indian Penal Code and includes the immediate family or dependants in the case of death of a victim;".

3. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter IIIA.

# "CHAPTER IIIA

# CRIMINAL OFFENCES CLAIMS TRIBUNALS

35A. (1) Every State Government and Union territory administration shall, by notification in the Official Gazette, constitute one or more Tribunals to be known as Criminal Offences Claims Tribunal for such areas in the respective State or the Union territory as may be specified in the notification, for the purpose of adjudicating upon claims of a victim for compensation in respect of offences involving death of or bodily or mental injuries to persons or damages to his property or mental, social or political activities.

Constitution of Criminal Odences Claims Tribunals.

- (2) A Tribunal shall consist of such number of members as the State Government or the Union territory administration may deem fit to appoint and where it consist of two or more members, one of them shall be appointed as the Chairman thereof.
- (3) A person shall not be qualified for appointment as the member of a Tribunal unless he—
  - (a) is, or has been, a judge of a High Court, or
  - (b) is, or has been, a District Judge, or
  - (c) is qualified for appointment as a Judge of the High Court.
- (4) Where two or more Tribunals are constituted for any area, the State Government or the Union territory administration may, by a general or special order, regulate the distribution of business among such Tribunals.
- 35B. (1) An application for compensation arising out of an offence specified in sub-section (1) of section 35A may be made—

Application of compensation.

- (a) by the person who has sustained the injury; or
- (b) where death has resulted by the offence, by all or any of the legal representatives of the deceased; or
- (c) by an agent duly authorised by the person injured or by all or any of the representatives of the deceased as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives, who have not so joined, shall be impleaded as respondents to the application.

- (2) Every application under sub-section (1) shall be made to the Tribunal having jurisdiction over the area in which the offence has taken place and shall be in such form and shall contain such particulars as may be prescribed.
- (3) No application for compensation under this section shall be entertained unless it is made within six months of the occurrence of the offence:

Provided that the Tribunal may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented from making the application in time.

Award of compensation to victims.

35C. On receipt of an application made under section 35B for compensation, the Tribunal shall, after giving the parties an opportunity of being heard, make an interim award by its subjective satisfaction of the urgency in the matter and after recording the reasons in writing and holding an inquiry into the claim shall make a final award determining the amount of compensation, which appears to it to be just, and specifying the person or persons by whom and to whom it shall be paid; and in making the award the Tribunal shall specify the amount and also the method of payment to and distribution among the claimants.

Person responsible to pay compensation. 35D. The compensation, as awarded under section 35C, shall be payable by an individual or individuals, if he or they have been found guilty of an offence under sub-section (1) of section 35A by the Tribunal, to the victim.

Government to collect the money from person responsible. 35E. Where the compensation has not been paid to the victim by the person responsible to pay such compensation under section 35D, the Government concerned shall take such steps as it deems fit to collect the money as an arrear of land revenue from the person and pay the same to the victim.

Government to pay compensation in case of failure of the person responsible.

35F. Where the person responsible to pay compensation under section 35D, is not in a position to do so, the State Government or the Union territory Government, as the case may be, shall pay the compensation, awarded under section 35C, to the victim, out of a Fund to be constituted for the purpose.

Tribunals to have the power of a Civil Court.

- 35G. (1) In holding any inquiry under section 35C, the Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it deems fit.
- (2) The Tribunal shall have all the powers of a civil court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the production of documents and material objects and for such other purposes as may be prescribed.
- (3) Subject to the rules that may be made in this behalf, the Tribunal may, for the purpose of adjudicating upon any claim for compensation, request one or more persons possessing special knowledge of any matter relevant to the injury, to assist it in holding the inquiry.

Appeal.

35H. (1) Subject to the provisions of this Chapter, any person aggrieved by an award of Tribunal, may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause for preferring the appeal in time.

- (2) No appeal shall lie against any award of a Tribunal if the amount in dispute in the appeal is less than five thousand rupees.
- 351. Where any Tribunal has been constituted for any area, no civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Tribunal for that area, and no injunction in respect of the claim for compensation shall be granted by the civil court.

Civil
Court
not to
have
jurisdiction.

35J. (1) The Central Government may by potification in the Official Gazette make rules for the purpose of carrying into effect the provision of this Chapter.

Power to make rules.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) The appointment, salary, allowances, conditions of service, etc. of the members of the Tribunal:
  - (b) the form of application for claims for compensation and the particulars it may contain; and the fees, if any, to be paid in respect of such applications;
  - (c) the procedure to be followed by the Tribunal in holding an inquiry under this Chapter:
  - (d) the powers vested in a civil court which may be exercised by a Tribunal;
  - (e) the form and manner in which and the fees, if any, on payment of which an appeal may be preferred against an award of a Tribunal; and
    - (f) any other matter which is to be, or may be prescribed.".

# STATEMENT OF OBJECTS AND REASONS

Crimes are being committed and offenders tried throughout the civilised world. Some of the accused persons are acquitted not entirely on the basis of the facts of the case but due to the benefit of doubt given to them.

While the rights of the accused are well protected under law, the victims of offences are left helpless and unprotected. The civil law open to them is costly, indirect, cumbersome and long drawn. The importance and necessity of providing a cheap and immediate relief to the helpless victims of crime was recognised world wide and the United Nations Congress on the Prevention of Crime and the treatment of offenders, has recommended that the rights of victims should be protected and that the Government concerned should ensure payment of compensation to the victims.

Hence this Bill.

New Delhi;

R. RAMASAMY.

August 13. 1991.

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall constitute one or more Criminal Offences Claims Tribunals for the purpose of disposing of claims for compensation made by victims of offences like death, physical or mental injury, etc. The tribunal shall consist of such number of members as may be deemed fit by the Government concerned. It further provides that where the person responsible to pay compensation awarded by a Tribunal is not in a position to pay the victim, the Government concerned shall pay such compensation out of a Fund to be constituted for the purpose. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in constitution of Tribunals, payment of salaries and allowances of their members and in constitution of the Fund, in respect of Union territories. As far as State Governments are concerned, the expenditure will be met from the Consolidated Funds of respective States. It is likely to involve an annual recurring expenditure of about rupees five crores.

It is also likely to involve a non-recurring expenditure of about rupees five crores from the Consolidated Fund of India.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to the matters of detail only, the delegation of legislative power is of a normal character.

68 of 1986.

### BILL No. 148 of 1991

# A Bill to amend the Consumer Protection Act, 1986

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1) This Act may be called the Consumer Protection (Amendment) Act, 1991.
- (2) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act.

Amendment of section 2.

- 2. In section 2 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), in sub-section (1),—
  - (i) in clause (c), after sub-clause (iv), the following sub-clause shall be inserted, namely:—
    - "(v) as a result of exposing or keeping for sale to the public any article which is likely to endanger the life or health or

safety of the public or is unfit for human consumption or hazardous to safety of the users, especially children,"

- (ii) in clause (d), in sub-clause (i), the words "or for any commercial purpose" shall be omitted; and
  - (iii) in clause (o).--
  - (a) after the words for the purveying of news or other information, the words "hospitals under the control of Government" shall be inserted;
  - (b) the following explanation shall be added at the end, namely:—

"Explanation.—Although no money was paid for the services rendered, it shall not amount to free of charge if taxes, rates and cesses were paid in lieu of the services rendered.".

3. In section 9 of the principal Act, in clause (a), the following proviso shall be added at the end, namely:—

Amendment of article 9.

"Provided that more than one District Forum shall be set up in a District according to its area and population."

- 4. In section 10 of the principal Act,—
- (i) in sub-section (1), the following proviso shall be added at the end, namely:—

Amendment of section 10.

"Provided that the President shall be consulted in respect of appointment of other members.";

(ii) in sub-section (2), after the existing proviso, the following proviso shall be added, namely:—

"Provided further that a panel consisting of persons qualified to be appointed as members shall be formed for filling up any short-term vacancies in the District Forum.":

- (iii) after sub-section (3), the following sub-section shall be added, namely:—
- "(4) The administrative control of a District Forum shall vest with the President of the State Commission appointed under section 16.".
- 5. In section 14 of the principal Act, in sub-section (1), after clause (d), the following clauses shall be inserted, namely:—

Amendment of section 14.

- "(e) to forthwith forbear from selling/offering for sale or distributing any goods/articles likely to endanger life or adversely affect public health or safety;
- (f) to remove the deficiency pointed out by the Forum in the service rendered."

Amendment of section 16,

- 6. In section 16 of the principal Act,—
- (i) in sub-section (1), after the existing proviso, the following provisos shall be inserted, namely:—

"Provided further that no member shall be appointed except after consultation with the President of the State Commission:

Provided also that a panel consisting of persons qualified to be appointed as members shall be formed for filling up any short-term vacancies in the State Commission.";

- (ii) after sub-section (2), the following sub-section shall be added, namely:--
- "(3) The administrative control of the State Commission shall vest with the President of the National Commission appointed under section 20.".

Amendment of section 20, 7. In section 20 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no member shall be appointed except after consultation with the President of the National Commission."

\*#TOTAL CONTROL OF THE CONTROL OF TH

# STATEMENT OF OBJECTS AND REASONS

The Consumer Protection Act, 1986, was enacted to protect the interests of consumers. Under the Act, there is a provision for the establishment of Consumer Disputes Redressal Forums in each district of the country. However, it has been noted that in many big districts due to a large number of pending cases the District forum has not been able to do justice. It is proposed to provide for the establishment of more than one forum in big districts so that they can function effectively.

On many occasions, members of the District Forum and the State Commission go on leave and the work in the respective agencies come to a standstill. It is suggested that a panel may be formed for filling up of short term vacancies in the District Forums and the State Commissions.

For better functioning, it is proposed to provide that the President should always be consulted in the appointment of members. The administrative control should be vested in the appelant Forums so as to ensure better management of the agencies.

It is also proposed to broaden the purview of the Act by including services rendered by hospitals under the control of the Government and to plug certain loopholes.

The Bill seeks to achieve the above objectives.

New Delhi;

RAM KAPSE

August, 12, 1991.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that more than one Consumer Disputes Redressal Forum shall be set up in a District according to its area and population. Clause 4 provides for formation of a panel consisting of members for filling up of short term vacancies in the District Forum. Clause 6 provides for the formation of panel consisting of persons qualified to be appointed as members for filling up of short term vacancies in the State Commission. The Bill, therefore, if enacted, will involve expenditure from Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten lakes is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakhs is also likely to be involved.

## BILL No. 125 of 1991

A Bill further to amend the Constitution of India.

Br it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short title.

2. In article 370 of the Constitution,-

Amendment of article 370.

- (a) in clause (1),-
  - (i) sub-clause (a) shall be omitted;
  - (ii) Explanation after sub-clause (b) shall be omitted:
- (b) clause (2) shall be omitted;
- (c) proviso to clause (3) shall be omitted;
- (d) after clause (3), the following clause shall be inserted,
- "(4) The provisions of this article shall cease to operate at the expiration of forty-five years from the commencement of this Constitution."

#### STATEMENT OF OBJECTS AND REASONS

Since its accession to India in 1948, the State of Jammu and Kashmir has become a part and parcel of India. People of Kashmir have participated in a number of elections to Parliament and the State Legislature, which has proved that Jammu and Kashmir is as good a State of India as other States are. Article 370 has, therefore, no meaning in the present situation. In fact, due to this article, the State has lost many opportunities as no big industrialists are interested in setting up industries in the State under the present arrangement. The State has thus remained industrially backward. The arrangement under this article has led to step-motherly treatment of the people of this State. What is more serious is that this article gives Pahlstan an opportunity to raise the Kashmir question in various international forums.

In the interest of the People of the State, therefore, this article should cease to be operative so that the State enjoys the fruits of progress of the country in all fields as are being enjoyed by the people of other States and the people of the State feel one with other countrymen.

Hence this Bill.

NEW DELHI:

UMABHARTI

July 26, 1991.

# BILL NO. 93 OF 1991

A Bill to provide for the establishment of a permanent Bench of the High Court at Bombay at Pune.

Be it enacted by Parliament in Forty-second Year of the Republic of India as follows:-

1. This Act may be called the High Court at Bombay (Establishment of a permanent Bench at Pune) Act, 1991.

Short tilte.

2. There shall be established a permanent Bench of the High Court at Bombay at Pune and such Judges of the High Court at Bombay, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Pune in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Kolbabur, Satara, Sangli, Sholapur, Ahmednagar and Pune.

Establishment of a permanent Bench of the High Court at Bombav at Pune.

#### STATEMENT OF OBJECTS AND REASONS

Since division Benches of Bombay High Court are sanctioned and are accordingly working at Nagpur (6 districts from Vidharbha) and at Aurangabad (6 districts of Maharathwada) there has been persistent demand for setting up of a permanent Bench of the High Court at Bompay at Pune for western Maharashtra. More than 20,000 cases have been pending in High Court at Bombay for a long time. Out of these many cases are pending for quite a long time

It would be appropriate if a Bench of the High Court at Bombay is established at Pune. People from western Maharashtra have to travel to Bombay in connection with their cases. It is a money, energy and time consuming affair. In the interest of speedy and economical justice and convenience of the litigant public, it is necessary to establish a Bench of the High Court at Bombay at Pune.

The Bill seeks to achieve the above objective.

NEW DELHI; July 15, 1991.

ANNA JOSEM

#### BILL No. 119 of 1991

A Bill to provide for the establishment of a permanent Bench of the High Court at Calcutta at Siliguri.

Br it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the High Court at Calcutta (Establishment of a Permanent Bench at Siliguri) Act, 1991.

Short title.

2. There shall be established a permanent Bench of the High Court at Calcutta, at Siliguri, and such judges of the High Court at Calcutta, being not less than two in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Siliguri in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Jalpaiguri, Darjeeling, Cooch Behar, West Dinapur and Malda.

Establishment of
a permanent
Bench
of the
High
Court at
Calcutta
at
Siliguri,

The second secon

# STATEMENT OF OBJECTS AND REASONS

There is a dire need for locating a Bench of the High Court at Calcutta at Siliguri for the administration of speedy and cheap justice and for the convenience of the litigant public of the region. The Bill provides for the establishment of such a Bench at Siliguri, which is a central and well connected city in the region.

Hence this Bill.

New Delhi;

August 6, 1391.

PIYUS TIRAKY

K. C. RASTOGI, Secretary-General.